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Joint Interim Subcommittee on Infrastructure

A Report to the 50th Legislature

December 1986

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Montana Legislative Council

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INFRASTRUCTURE

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by the

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SUMMARY OF RECOMMENDATIONS

The Joint Interim Subcommittee on Infrastructure recommends that the 50th Montana Legislature enact:

-- 1) A bill expanding the purpose of coal severance tax bonds to include public works generally and providing for grants and loans to local government for public works projects (LC 224);

-- 2) A bill authorizing a local government to impose any type of tax not prohibited by law, subject to approval by the electorate (LC 223); and

-- 3) A bill revising the definition of a resort community for purposes of the resort community local option tax (LC 222).

These bills are reproduced in Appendix G.

SENATE JOINT RESOLUTION NO. 42

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY ON LOCAL GOVERNMENT INFRASTRUCTURE.

WHEREAS, there is a critical need for accurate information on the condition of bridges, streets, roads, flood control facilities, drainage facilities, public transportation systems, administrative buildings, water systems, sewer systems, public health and safety facilities, communications systems, library facilities, jails, juvenile detention centers, and other public facilities in Montana counties, municipalities, and special districts; and

WHEREAS, the Governor's Task Force on Infrastructure developed a number of specific recommendations concerning the finance, operation, and maintenance of local government infrastructure; and

WHEREAS, the Governor's Task Force on Infrastructure recommended a comprehensive review, revision, and recodification of local government finance statutes; and

WHEREAS, an assessment of existing state assistance programs to local government for infrastructure planning, finance, and maintenance is needed, and changes in such programs may be appropriate; and

WHEREAS, an assessment and legislative consideration of such various local government infrastructure finance mechanisms as implementation of capital budgeting, use of lease-purchase long-term financing, user fee financing, and other financial sources is needed; and

WHEREAS, an assessment of the provision of local government public utility services, review and possible modification of statutes concerning use of fee and rate revenues from such services, and the effect of regulation by the Montana Public Service Commission on such local government services is appropriate; and

WHEREAS, a review of existing statutes concerning local government capital improvement planning is needed; and

WHEREAS, an assessment of construction standards of public facilities and the effect of these standards on the cost of construction and maintenance and local government liability is needed; and

WHEREAS, modifications of existing statutory requirements and administrative procedures concerning the planning, financing, and maintenance of local public facilities are appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That an appropriate interim committee be assigned to:

(1) examine the recommendations of the Governor's Task Force on Infrastructure;

(2) examine various approaches and mechanisms to improve the planning, financing, and maintenance of local government infrastructure; and

(3) obtain testimony and information from the members of the Governor's Task Force on Infrastructure and from all parties expressing an interest in local government infrastructure and compile a record of such testimony and information.

BE IT FURTHER RESOLVED, that the committee report its findings and recommendations to the 50th Legislature and, if necessary, draft legislation to implement its recommendations.

INTRODUCTION

This report describes the 1985-86 study of Montana local government infrastructure authorized by the 49th Legislature to implement Senate Joint Resolution No. 42.

The Joint Interim Subcommittee on Infrastructure met six times during the 1985-86 interim; conducted a statewide survey of city, town, and county governments; held two public hearings; and recommended three bills to the 50th Legislature.

Part I describes the origins of the study, including in particular the recommendations of the Governor's Task Force on Infrastructure. SJR 42 was the legislative response to these recommendations.

Part II summarizes the information presented to the Subcommittee in the course of its deliberations. Although this information is presented here in the chronological order in which the Subcommittee received it, each summary has been revised to make the information current as of the end of the biennium. Copies of the revised staff reports were distributed to the Subcommittee in August and September 1986, and are available in the Legislative Council library.

Part III presents the issues and options considered by the Subcommittee during its fifth meeting in September 1986, and Part IV summarizes the discussion that ended in the Subcommittee's selection of three bills for the consideration by the 50th Legislature.[1]

I

ORIGINS OF THE STUDY

The Governor's Task Force on Infrastructure

In January 1984, Governor Schwinden appointed a task force on infrastructure. Its mission was to:

1) explore ways to improve the quality and quantity of investment in capital facilities in Montana;

2) compile information on the needs of counties, cities, and towns for building or repairing basic public works; and

3) investigate administrative and legislative changes that would facilitate local government finance, planning, and operation of capital facilities.

The results of the task force's year of work are summarized in an illustrated pamphlet distributed by the Montana Contractors' Association (see Appendix A), and in a final report published by the Montana Department of Commerce.[2]

The task force found that parts of Montana's infrastructure are in serious disrepair. It summarized the problem and estimated the costs of rehabilitation and replacement as follows:

Roads and Streets: Cities and counties are responsible for maintaining approximately 70,000 miles of roads and streets. Estimated costs of maintenance: $7,500,000,000.

Bridges: Of the 2,142 bridges for which cities and counties are responsible, 1,717 are structurally deficient or obsolete. Estimated costs of repair or replacement: $100,000,000.

Water Systems: Incorporated cities and towns reported 264 needed capital improvement projects. In addition, 98 of the 279 rural water systems were reported to be in need of major upgrading to bring them into compliance with state water quality standards. Estimated costs of these improvements: $100,000,000.

Sewage Treatment and Disposal: An evaluation of 203 public systems indicated that repairs or expansion were needed for systems serving approximately two-thirds of the state's population. Estimated costs: $231,276,000.

Solid Waste: Nine percent of the state's population is being served by solid waste systems that are not in compliance with Department of Health standards. The estimated cost of bringing these systems into compliance is $1,000,000; the estimated cost of maintaining all systems at a compliance level is $5,400,000. Total estimated costs: $6,400,000.

Jails: Fifty-two of Montana's 53 county jails need rehabilitation, expansion, or replacement; of these, 21 are over 30 years old and need to be completely renovated or replaced. Estimated costs: $56,713,000.

Based on these estimates, Montana local governments face a total liability of over $8 billion for infrastructure projects. If maintenance and repairs are deferred, inflation and further deterioration will increase this total.

Concluding that the state's role in solving this problem should be to "enhance local capabilities to finance and maintain public facilities," the task force recommended that:

1) each local community determine its own priorities and needs for capital investment;
2) the Legislature authorize new sources of local revenue, using "local taxes for local public facilities;"
3) the Legislature change statutes and regulations that add to the cost of planning and financing local public works; and that
4) the state actively encourage local governments to prepare capital improvement plans.

Specific recommendations were offered for streets, roads and bridges; jails; transportation; utilities; communication facilities; and infrastructure generally.

Action Taken by the 49th Legislature

The 1985 Legislature adopted 12 of the task force's 36 specific recommendations, at least in part.[3] Five bills passed during the regular session, and one passed during the June 1986 special session provided new revenue to local governments. Two of these (a new light vehicle licensing fee and a one-time transfer of $6.5 million from the general fund) were intended to replace local government block grants funds lost as a result of the decline in oil severance tax revenue.

Thirteen bills passed during the regular session enhanced local governments' ability to finance capital improvements. The major innovations were tax anticipation notes; special service districts for road, street, and bridge maintenance; authorization to contract with private vendors for jail construction, operation, and maintenance; and an increase from $150,000 to $500,000 in the amount of indebtedness a county government can incur without a vote.

Task Force Recommendations Still Awaiting Action

The task force's first general recommendation was to let each local government determine its own needs for capital improvements. The 1985-87 interim provided an opportunity for the Legislature, represented by the Interim Subcommittee on Infrastructure, to educate itself about the most critical needs of local governments.

Second, the task force recommended that the Legislature authorize new sources of revenue for local government. Of the new sources authorized by the 1985 Legislature, only one -- additional light vehicle fees -- promised to yield a significant amount that would be available for infrastructure projects. Other sources proposed but not approved during the regular session were a franchise tax on financial institutions; a tax on hotel, motel, and campground fees; a "local option" tax on income, payroll, sales, or light vehicles; a realty transfer tax; and grants and loans from an "infrastructure bank" funded by 25% of the revenue from the coal severance tax.

Third, the task force recommended that the Legislature change statutes and regulations that add to the cost of planning and financing public works. Apart from the bills that increased local government flexibility in budgeting and finance, the 1985 Legislature took no action in this area. Nor did it take any action regarding the task force's fourth recommendation, which was to encourage local governments to prepare capital improvement plans.

Senate Joint Resolution No. 42

SJR 42 called for an examination of the task force recommendations and a search for "approaches and mechanisms" to improve the planning, financing, and maintenance of local government infrastructure. The resolution was passed in late April 1985 by 41 votes in the Senate and 85 in the House. In a survey conducted at the end of the regular 1985 session, legislators were asked to indicate the five highest priorities among the 18 study resolutions passed during the session. Infrastructure ranked fifth and thus became one of six studies undertaken during the 1985-87 interim.

II

SUBCOMMITTEE DELIBERATIONS

Focus of the Study

House Local Government Committee discussion of SJR 42 in April indicated that committee members, and the resolution's sponsor as well, were inclined to regard lack of funds for infrastructure projects as the most critical problem. Accordingly, the interim Subcommittee decided at its first meeting, on August 2, 1985, to:

(a) study the possibility of using coal severance tax revenue for infrastructure;

(b) consider authorizing local option taxes for infrastructure; and

(c) conduct a survey of local governments to determine local priorities, estimated costs of high-priority projects, and existing funding sources.

Support for this comparatively narrow view of the Subcommittee's mission came from Gordon Morris of the Montana Association of Counties (MACo), who said that in view of the expected loss of federal revenue sharing, financing should be the Subcommittee's most critical issue.

Allocation of Coal Severance Tax Revenue

At its second meeting, on November 1, 1985, the Subcommittee heard a history of the Montana coal severance tax and a summary of the current allocation of revenue from the tax, presented by Paul Verdon, researcher for the Coal Tax Oversight Committee.

Additional information was presented to the Subcommittee in a staff report.[4]

The coal severance tax is one of Montana's largest revenue producers. In FY 87 it will yield an estimated $79.2 million (down from $91.7 million in FY 85). In the 11 years since its inception it has generated over $700 million for the state. Half of the revenue has been deposited in the permanent trust, and a smaller portion (12.5% in FY 1986) has been deposited in two other trust funds. Interest from these trust funds is projected at $52.2 million for FY 1987. Since 1975, interest income has amounted to $182.3 million dollars, bringing the state's total revenue from the tax to nearly $900 million since 1975.

Details of the allocation of coal severance tax for FY 1986 and FY 1987 are shown in Appendix B. Except for the 50% reserved for the permanent trust, this allocation is determined by statute. It has been changed every biennium, and in some cases every year since it was first enacted. During the 1986 special session, for example, House Bill 23 appropriated to the general fund $1.0 million from the local impact and education trust fund; Senate Bill 13 diverted to the school equalization fund 72% of the money allocated to the local impact and education trust fund; and House Bill 15 diverted to the general fund the entire parks acquisition trust fund allocation for FY 1987 through FY 1989.

The Water Resource Development Program

Because the water resource development program uses coal severance tax revenue to fund certain local government infrastructure projects, Carolee Cheney of the Department of Natural Resources and Conservation (DNRC) Water Development Division was asked to describe this program to the Subcommittee at its second meeting.

The Loan and Grant Program. DNRC actually uses coal severance tax revenue to administer two water resource development programs. First, the Loan and Grant Program draws on the direct coal tax allocation (currently .55% of collections) and on interest income from the Resource Indemnity Trust Fund to fund water-related projects. This program commands approximately $2 million each biennium for grants. Approximately 40% has been used for local government infrastructure. In addition, the Water Development Division sells general obligation bonds to raise money for loans to public and private entities. These loans are usually for less than $200,000, and most of them have been used for private irrigation projects. About one-third of them have been for local government infrastructure.

Coal Severance Tax Bonds. Second, the division makes loans of $200,000 or more to public entities for water-related projects, using the proceeds of coal severance tax bonds. Coal severance tax bonds were instituted by the 1981 Legislature with the intent that "projects to be financed by coal severance tax bonds include water resource development projects and activities as part of the water development program established in Title 85, chapter 1, part 6 (17-5-702, MCA).

Under 17-5-703, MCA, 50% of coal severance tax receipts are deposited in a bond fund, which is maintained at a level sufficient to "meet all principal and interest payments on bonds payable from the coal severance tax bond fund on the next two semiannual payment dates."

DNRC's commitment to bondholders is to maintain the fund at twice what is needed for debt service. Money not needed to maintain this reserve is transferred to the permanent trust.

Thus, the money in the coal severance tax bond fund, but not the permanent trust, is pledged to the payment of the principal and interest on all Montana coal severance tax bonds. Income to the bond fund is expected to be approximately $40 million in FY 1987. According to DNRC staff, the principal and interest due on coal severance tax bonds amounts to $2.4 million for FY 1987.

Proceeds from the sale of coal severance tax bonds are used for loans of $200,000 or more to cities, counties, and other political subdivisions for water development projects. Authority to issue these bonds, and to use the proceeds to finance specific projects, must be granted for each project by the Legislature. Approval requires a two-thirds vote (17-5-706, MCA).

The interest rate on these loans is established by the Legislature. Because the bonds are secured by the coal severance tax bond fund as well as by loan payments, which are derived from water project revenues, the interest rate can be "subsidized" -- that is, reduced below the rate at which the bonds were sold. This amounts to a direct use of coal tax revenue for water development. The resulting loss of income to the permanent trust is compensated by a requirement that 15% of the interest earned by the trust be reinvested, leaving 85% of the interest available for legislative appropriation.

In FY 1986, the interest subsidy took $490,614 that otherwise would have gone to the permanent trust. The 15% of earnings reinvested in the trust amounted to $5.7 million for the same year.

Summary. The 1983 Legislature authorized a coal severance tax bond sale of $17 million for loans to local governments (Ch. 705, L. 1983), but only $10.5 million was actually issued. Fourteen projects received loans of $200,000 or more. These projects included eight city water or sewer system improvements, two rural water or sewer systems, and a dam rehabilitation project. (The rest were for irrigation districts.) Interest rates for water and sewer system loans were 7% for the first five years of the 20-year loan term, and 10.26% for the remaining 15 years.

The 1985 Legislature authorized the sale of $47.6 million worth of coal severance tax bonds to finance loans to public entities for water development projects (Ch. 717, L. 1985). These included 17 city water or sewer systems; 13 rural water or sewer systems; five irrigation district projects; and one dam rehabilitation project. As of December 31, 1985, only $16.9 million had been issued.

By September 1986, when Water Development Division staff again appeared before the Subcommittee, coal severance tax bonds had been used to finance $45 million in water development loans. This is approximately 30% of the total bonding capacity, which is estimated by DNRC staff at $120 million to $150 million.

Local Government Taxing Authority

At its second meeting the Subcommittee reviewed a staff report on the present taxing authority granted to cities, towns, and counties in Montana.[5]

General Taxing Authority. Under an 1895 statute (7-1-2103, MCA), a Montana county may levy any tax authorized by state law, for "purposes under [the county's] exclusive jurisdiction." Cities also were given authority in 1895 to levy and collect taxes "on all property in the city or town taxable for state and county purposes" (7-6-4421, MCA). A 1921 law expanded that authority by allowing cities to levy and collect taxes "for general and special purposes" (7-6-4401, MCA).

Cities and towns were later given authority to levy any tax authorized by state law and to impose special assessments or fees for the provision of services (7-1-4123, MCA, enacted in 1979).

An 1887 law limited taxes levied by cities for general purposes to 1% of the city's taxable value (raised to 2.4% in 1969), but a 1919 law allows a city governing body to exceed any mill-levy limit for two years, if the voters approve (7-6-4405 and 7-6-4431, MCA, respectively).

Other statutes authorize municipal mill levies for specific purposes, such as libraries, bridges, roads, streets, and other improvements. In 1965 cities were authorized but not required to make an all-purpose annual levy of up to 60 mills (raised to 65 mills in 1971) in lieu of "the multiple levies now authorized by statute," not including levies for special improvement districts (7-6-4451 through 7-6-4453, MCA). Most of the 54 cities using an all-purpose levy had reached or exceeded the 65-mill limit in FY 1986.[6]

In 1931, county commissioners were given authority to levy for county purposes such tax as may be necessary "to defray the current expenses thereof," but not more than 16 mills (7-6-2501, MCA). The levy limits were raised in 1973 to 25 mills in first, second, and third class counties, and to 27 mills in other counties. In addition, county commissioners are authorized to levy such taxes as are required by "special or local statutes." In FY 1986, 33 counties were above or within 1 mill of the maximum general fund levy allowed under state law.

Like municipalities, counties may exceed a statutory mill-levy limit with the consent of the voters (7-6-2531, MCA).

Mill levies must be set annually by city and county commissions and city councils. The mill levy for each fund in the county or city budget is determined by the taxable valuation for the current year and the budget for the subsequent year. Although each levy must be set at a rate "no higher than is required" by the budget (7-6-2321 and 7-6-4232, MCA), any taxing jurisdiction may "adopt and levy for a budget equal to 105% of the preceding year's budget, statutory mill levy limitations notwithstanding," unless the taxable valuation increased enough to produce a budget that would be 5% larger than the previous year's without a tax increase (15-7-122, MCA).

Cities and counties with self-governing powers are subject to state laws that regulate budget, finance, and borrowing procedures, but the mill levy limits described above do not apply (7-1-114, MCA).

The Local Option Resort Tax. Resort communities may impose a tax on goods and services (7-6-4461 through 7-6-4467, MCA; enacted in 1985). For purposes of this tax, a resort community is an incorporated town of less than 2,500 population which derives "the major portion of its economic well-being" from businesses "catering to the recreational and personal needs of persons traveling to or through the community."

This tax may not exceed 3%; it may be imposed only on "luxuries" and on goods and services sold by hotels, motels, restaurants, taverns, and fast food stores; and it must be approved by a majority of the community's electors. Revenue generated by this tax may be appropriated without restriction, but any community that imposes it must reduce its property tax levy by an amount equal to at least 5% of the resort tax revenue derived during the previous year.

The Department of Commerce is charged with designating resort communities in Montana. In 1985 the department surveyed 95 communities with a population less than 2,500 (as of 1984). Of these, only six asked to be designated as resort communities (Ennis, Red Lodge, St. Ignatius, Three Forks, Virginia City, and West Yellowstone). Using the statutory definition of "resort community," the department designated Red Lodge, West Yellowstone, and Virginia City as "resort communities." Three Forks was disqualified because a majority of its employed residents work in manufacturing (especially the local cement plant); St. Ignatius had more people in federal government employment than in tourism; and in Ennis the principal employer is a talc mine.

Of the three designated "resort communities," only West Yellowstone imposed the tax in 1985. It is a 3% tax on hotels, motels, restaurants, and taverns, effective January 1, 1985. In the first seven months of 1986, the city had collected $278,683. Collections in the first five months were enough to reduce the city's general levy by 3.19 mills for FY 1987.

Motor Fuel and Other Taxes for Roads, Streets, and Bridges. A county may with the approval of the voters, impose an excise (sales) tax on gasoline, to be collected by the Department of Revenue and distributed to the county and its municipalities. Revenue from this tax may be used only for the construction, repair, and maintenance of public streets and roads. It may not exceed 2 cents per gallon (7-14-301 through 7-14-304, MCA).

No county has imposed the local option motor fuel tax since it was enacted in 1979, though it has been on the ballot in three counties. (Flathead County voters defeated it most recently, in April 1986.)

The local option motor fuel tax, if it were approved by the voters, would augment the general county road tax authorized in 1965 (7-14-2501, MCA). This statute authorizes county commissioners to levy up to 15 mills (18 mills in fourth, fifth, sixth, or seventh class counties) for the construction, improvement, and maintenance of public highways. In FY 1986, 38 counties levied the maximum or within 1 mill of the maximum general road tax.

The county road tax is deposited in the county road fund, which is also the destination of motor vehicle license and registration fees. Under a law enacted in 1965, half the revenue derived from registration fees paid by residents of incorporated cities and towns must be paid to those cities and towns for street construction and maintenance (7-14-2512 and 7-14-4113, MCA). County commissioners may also allocate up to 50% of the proceeds from oil and gas leases and royalties to the county road fund (7-14-2505, MCA, enacted in 1979).

Another 1965 statute authorizes a local option road and bridge tax of up to 10 mills, which may only be imposed on county property taxpayers with the approval of the voters. The revenue is to be used "for constructing public highways and bridges" (7-14-2504, MCA). Only Madison County has imposed this tax (at 2 mills).

The basic bridge tax (authorized in 1965) is 4 mills. A levy of up to 1 mill may be added in class four through class seven counties with more than 4,000 linear feet of bridges, and up to 2 mills may be added in class two and class three counties with more than 6,000 linear feet of bridges and less than $40 million in taxable value (7-14-2502 and 7-14-2503, MCA). In 1985, only nine counties levied as much as 5 mills for bridges, and only one (Phillips) levied 6 mills.

Capital Improvement Funds. Although most county tax levies are authorized for a specific purpose (e.g., library services, weed control, county fair), a 1975 statute provides for a more general use of tax revenue in the form of a capital improvements fund. A county commission may appropriate money from its multiple levies for a capital improvement fund "for the replacement and acquisition of property, plant, and equipment costing in excess of $5,000" (7-6-2219, MCA). Not more than 10% of the revenue from any one levy may be appropriated to the capital improvement fund (7-6-2220, MCA).

A parallel statute enacted in 1965 allows cities and towns that have opted for an all-purpose levy to use up to 5% of the money derived from that levy for a capital improvement fund (7-6-4134 and 7-6-4135, MCA). No similar provision exists for the 73 cities and towns that have not opted for an all-purpose levy.

According to a 1985 Department of Commerce report, Montana cities, towns, and counties generally do not establish capital improvement funds because operating costs usually absorb all available revenues.[7]

Legislation Enacted in 1985-86. In general, bills that would have enhanced local government taxing authority did not fare well in the 1985 Legislature. The prevailing trend was toward statewide taxes to generate revenue that would be distributed among local governments.

As an example of this trend, Senate Bill 142 added a fee to the light vehicle licensing fee, and Senate Bill 25 allocated the new revenue to certain district court costs. County treasurers collect this money, but the Department of Commerce distributes it to the district courts. Until 1985, counties were responsible for most district court costs.

The Montana Infrastructure Survey

At its second meeting, the Subcommittee decided to augment its information on local government needs and priorities by conducting a survey of all Montana counties and incorporated cities and towns. The survey was conducted by mail in December 1985, and a preliminary report on the results was presented to the Subcommittee at its third meeting on January 24, 1986. A final report[8] was mailed to the Subcommittee in March.

The immediate model for this survey was a similar one done in 1984 by the Governor's Task Force on Infrastructure.

The Task Force Survey. The purpose of the survey commissioned by the task force was to determine which public services and facilities were considered inadequate, and why; what remedial work was contemplated; and how such work would be financed. Personal interviews were conducted with local officers and managers in six cities and five counties, yielding detailed information on the state of sewers, water systems, fire protection, law enforcement, roads, streets, and other facilities in each of these 11 jurisdictions.

Although it was very useful as far as it went, the information generated by the task force survey did not represent the state as a whole. Three of the six cities in the survey were over 20,000 in population, and none were under 3,000. In the state as a whole, more than half the 127 incorporated municipalities have fewer than 1,000 people. The five counties in the task force survey also were predominantly urban, and all of them had more people and a higher taxable value than half the counties in the state as a whole.

The task force consultant made a number of general observations relevant to the purposes of the Subcommittee. These are as follows:

1. Each of the jurisdictions surveyed is within 2 mills of its allowable mill levy limit. Local government revenue from allowable mill levies has in any case been reduced by legislative property tax relief (e.g., motor vehicle registrations and business inventories); by plant closures; and by the general economic decline of the 1980s. In short, taxable valuation has declined and local governments have no compensating ability to raise mill levies.

2. Most jurisdictions have not set aside funds for capital improvements because there is no cushion in the mill levy. Setting money aside for future expansion, maintenance, or replacement of facilities can only be done by reducing services or raising taxes.

3. The primary focus of county problems in the task force survey was on the provision of urban services to suburban residents, who do not pay city taxes.

4. Many jurisdictions would benefit from a regional authority for specific services, especially

landfills and jail improvements. Local jurisdictions need the authority to set up regional tax districts and enter interlocal agreements for financing capital improvements.

5. Requirements imposed by the state should be -- but are not always -- accompanied by a taxing authority or some other means of paying the costs associated with compliance.

Despite the limited range of cities and counties that participated in the task force survey, it is probably safe to assume that these observations apply in some degree to most Montana cities and counties.

The Interim Subcommittee Survey: Methodology. Ideally, the survey conducted by the Subcommittee would have extended the methodology of the task force survey to a broader range of cities, towns, and counties, to determine whether the task force's conclusions in fact do apply to rural areas and small towns. To achieve this goal, however, personal interviews would have had to be conducted with several representatives of each government, at a cost that far exceeded the Subcommittee's resources. Instead, the Subcommittee chose to attempt as broad a coverage of local governments as possible, using a brief mail questionnaire sent to all local jurisdictions.

Questionnaires were mailed on December 12, 1985 to all 56 counties and 128 incorporated cities and towns, a cover letter addressed to a specific county commissioner chairman, city manager, or town clerk, and signed personally by the chairman (Senator Fuller). (See Appendix D for copies of the city and county versions of the questionnaire, a facsimile of the cover letter, and a list of the cities and counties that returned completed questionnaires.)

Completed questionnaires began to come back on December 14, and most of the participating jurisdictions had sent one in by the end of December. By January 29, 94 municipalities (including the two consolidated city-counties) and 35 counties had returned their completed questionnaires to the Legislative Council. This return amounts to 74% of all incorporated municipalities and 66% of all counties.

A late return in March brought the total of responding counties to 38 (including Silver Bow and Deer Lodge), or 68% of all counties.

The largest cities were most likely to return their questionnaires. All 15 of the cities with 5,000 population or more, and nine of the 12 cities with 3,000 to 4,999 population, returned questionnaires. However, of the 66 towns under 1,000 in population, only 46 returned a questionnaire.

Although larger counties also were more likely to participate than smaller ones, the median 1984 population size of participating counties (7,068) was very close to the median population size of all 56 counties (6,970), and the median 1985 taxable value was also very close to the median for all counties.

Interim Subcommittee Survey: Results for Cities and Towns. A majority of respondents indicated that most public facilities in their cities were in good physical condition or only in need of repair, but 37% did report that their streets needed rehabilitation or replacement. (See Appendix E, Table 1.) Major water supply or distribution problems were reported by about one community in four, and about the same proportion reported that their sewers needed rehabilitation or replacement.

Of those who reported facilities that were not in "good" condition, most said they would need financial help to repair or replace water lines, sewer lines, treatment plants, and so on. Nearly 60% of those reporting water supply problems, for example, and over half of those reporting a need for street repairs or rehabilitation, said they would need state or federal help in financing.

City and town respondents were generally optimistic about the capacity of their facilities, but most of them reported at least one inadequate facility. (See Appendix E, Table 2.) About 30% checked "does not meet existing need" for streets, and another 22% expected their streets to be inadequate by 1990. For water distribution and sewer systems, over one-third indicated that the facility was inadequate now or would be by 1990. And nearly half of the 51 respondents who indicated that their community was responsible for solid waste said that the facility did not meet existing need now or would be inadequate by 1990.

Larger cities were more likely than towns and small cities to report problems with water storage and distribution systems, sewers, and streets. In fact, a majority of cities with over 3,000 in population reported that their water distribution systems were inadequate or would be by 1990. Small towns (less than

1,000 population) were more likely than cities to report inadequate landfills and water and sewage treatment plants.

Eighty of the city and town respondents indicated that rehabilitation, replacement, or expansion of a public facility was a top priority for capital improvements. (See Appendix E, Table 3.) A majority (53%) indicated that their first priority for capital improvements involved the city water system. Sixteen percent indicated that street repairs were their first priority, and 16% checked sewage collection or treatment. A new jail was the first priority in both the consolidated city-counties.

Most high-priority water, sewer, and landfill projects were estimated at less than $500,000. Of the 113 water and sewer projects, 57% were estimated at less than $500,000, and only 22%, at over $1,000,000. Of the 14 landfill projects, 71% were estimated at less than $500,000. In contrast, 60% of the 37 high-priority street projects were expected to cost more than $500,000, and 35% were expected to cost more than $1,000,000. All three high-priority jails were estimated at $1,000,000 or more.

Respondents were instructed to indicate the most important (not necessarily the "only") source of expected funding for each of their three highest priorities. Many of them checked at least two sources, indicating equal reliance on each source, and most of these combinations involved the federal government.

User fees, alone or in combination with a source other than federal funds, were checked as the primary source of funding most often for water projects, but even in this area respondents were more likely to opt for federal funds.

In general, it was the larger communities that planned to finance projects with user fees. Columbus, for example, indicated that user fees were to be the primary source of funding for both water distribution and sewer system repairs; Forsyth did so for its landfill and sewer system projects; and Kalispell also, for water distribution and sewage treatment. Butte and Baker checked user fees as the primary source of funds for a new landfill; Columbia Falls and Hardin, for water supply and storage; and Medicine Lake, Glasgow, and Wolf Point, for water distribution systems.

State water resource development bonds, in combination with federal funds, were indicated as the primary source by Judith Gap and White Sulphur Springs. These communities already have applied for this type of state assistance.

Local bond issues, alone or in combination with a source other than federal funds or user fees, were checked as a primary source for 23 projects, including Butte's library and jail; water distribution systems in Hamilton, Havre, Lewistown, and Livingston; water treatment plants in Helena and Whitefish; and water supply projects in Glasgow, Melstone and Neihart. Again, larger communities were more likely than smaller to choose bond issues as a method of funding public works.

Interim Subcommittee Survey: Results for Counties. The questionnaires returned by counties (usually by a county commissioner) reflected the relatively narrow range of facilities provided by county governments. All 36 counties acknowledged responsibility for roads, bridges, and a jail; 23 for solid waste disposal; 30 for a library; and 24 for a hospital or nursing home. (Butte-Silver Bow and Anaconda-Deer Lodge are not included in this analysis.)

The majority of county commissioners reported a need for repair, rehabilitation, or replacement of roads, bridges, and especially jails. (See Appendix E, Table 4.) They were more optimistic about the condition of their libraries, hospitals, and landfills.

Only one-third of the responding county officials considered their jail adequate for at least the next five years, and 20 of them said their jail did not meet existing need now. (See Appendix E, Table 5.) They were equally pessimistic about bridges. Most of them, however, considered their landfills, libraries, and hospitals adequate for at least the next five years.

Not surprisingly, roads and bridges were most often chosen as the county's first priority, followed by jails and hospitals. (See Appendix E, Table 6.) Of the 31 counties reporting a first priority, 16 selected roads or bridges, and 16 also selected roads or bridges as their second priority. Estimated costs for road and bridge projects usually exceeded $1,000,000, and six counties estimated the cost at $10,000,000 or more (Carter, Chouteau, Garfield, Lake, Madison, and Powell).

Jail projects were the first priority in eight counties, the second, in two counties, and the third, in nine. Five of these 19 projects were estimated at under $500,000; four, at over $5,000,000 (Carter, Cascade, Flathead, and Missoula).

Federal funds, usually in combination with gas or property taxes, were the expected source of funding for almost all road and bridge projects. User fees were checked only for water, sewage, and solid waste projects, including a first-priority sewer project in Lewis and Clark County. Bonds were the expected source for jails in Cascade, Dawson, Hill, Missoula, Ravalli, and Teton counties, and for a hospital or nursing home in Flathead County.

Interim Subcommittee Survey: State Laws and Regulations. The last question respondents were asked had to do with with state laws or regulations that had created difficulties in funding public works projects. Twenty-nine city officials and 18 county officials said they had had such experiences.

City officials most often mentioned water quality standards affecting sewage or water treatment plants, while county officials most often mentioned limits on mill levies, voter turnout requirements, and other restrictions on locally initiated funding. The "Little Davis-Bacon" wage standard law was criticized by three county officials and four city officials.

Some city and county officials also mentioned the difficulties involved in financing projects too small for a bond issue, and others complained about the "red tape" that had impeded their applications for state grants and loans.

Interim Subcommittee Survey: Conclusion. The results of this survey showed, as expected, that most of Montana's cities and counties have urgent capital improvement projects that they cannot finance without help. Even among the 14 cities and five counties that did not report such a project, most indicated a need for "repairs" or indicated that at least one facility would be inadequate by 1990.

Bond Pooling Programs

At its fourth meeting on April 18, 1986, the Subcommittee heard a presentation by David Ewer of the Montana Economic Development Board. The Board offers two financing programs for local governments: The Cash Anticipation Financing Program and the Intermediate Term Capital Pool.

Cash Anticipation Financing. Under this program, the Board finances cash deficits for school districts and local governments by selling bonds and investing the proceeds at a higher rate than it owes the bond buyers. School districts and local governments borrow from the board on a short-term basis, usually for a year, at a rate determined by this "arbitrage," or the difference between the bond rate and the board's investment rate.

For FY 1986, $18.6 million in bonds were sold to finance 29 local governments' deficits. The interest rate on these bonds was 5.5%; the average effective rate for borrowers was 2.5%.

The 1986 Tax Reform Act will limit the program severely, since it requires any government that issues more than $5 million of bonds annually to spend its bond proceeds within six months. If bond proceeds are invested at a higher rate of interest, the profit or arbitrage must be paid to the federal government. This new law will make it impossible for the state to offer local governments a low interest rate based on arbitrage.

Intermediate Term Capital Financing. Under the Municipal Finance Consolidation Act of 1983, Montana local governments can pool their equipment needs through the board, which will finance them by selling bonds at a lower rate of interest than a local government could command on its own. The intent is that the board will purchase a local government's installment sales contract, bonds, or other obligations, using the proceeds of bond sales. The local government will then have five years (for sales contracts) or seven years (for other types of obligation) to repay the board, at an expected interest rate of 7% to 8%.

The cost advantage to local governments is expected to be greatest for installment sales contracts and least for bond issues. For purchases or bond issues in excess of $500,000, a local government will have to have voter approval.

At the end of August 1986, the "Intercap" program had not attracted enough participants to justify a bond issue. The board's director attributed this to the $500,000 limit and to the fact that at present the program cannot provide an interest rate lower than what most local governments can obtain themselves, that is, 8 to 9%.

Community Development Block Grants

Although the Subcommittee did not hear a formal presentation on the Community Development Block Grant Program, it was aware of this source of funding for local government infrastructure projects. A staff report on the subject[9] was given to the Subcommittee in September and is summarized here.

The Community Development Block Grant (CDBG) Program is a competitive federal grant program designed to help communities of less than 50,000 population with their community development needs. The program is administered nationally by the U.S. Department of Housing and Urban Development and in Montana by the Local Government Assistance Division in the Department of Commerce, which has been in charge of the program since 1982.

Congress has authorized approximately $6 million annually for Montana projects. Grants are awarded for public facilities, economic development, and housing and neighborhood revitalization. Only the public facilities grants will be reviewed here.

Public facilities eligible for a grant under this program include:

- water and sewer facilities
- solid waste disposal facilities
- fire protection facilities and equipment
- flood and drainage facilities
- street improvements
- parking facilities and walkways
- parks and recreational facilities

Grants may also be awarded for payment of the nonfederal share in connection with another federal grant program (such as the E.P.A. sewer program), and for payment of special assessments levied against properties owned by low and moderate income persons for the capital costs of eligible public facilities.

All projects must document that at least 51% of the nonadministrative funds requested are designed to meet the needs of families with low and moderate income (less than 80% of the national median), or that at least 51% of the residents in the project area have low or moderate income.

The demand for CDBG funds has always far exceeded the amount available: only 25% of public facilities applications can be funded. Most awards are for less than the total cost of the project, which means that most projects are funded by a combination of grants and loans.

From 1982 through 1985, $9.1 million was awarded for public facilities grants to finance 22 water projects, nine sewer projects, and two solid waste projects. Twenty-three went to cities and ten went to counties.

The two solid waste grants were to Madison and Powell counties. Most of the water and sewer projects were also funded by the DNRC water development program or by an EPA grant. For example, Anaconda received $400,000 in 1983, for a $4 million sewer project also funded by EPA. White Sulphur Springs received $500,000 in 1984, for a $900,000 water project also funded by DNRC (coal severance tax loan, authorized for $639,000 by the 1985 Legislature).

In 1985, the three largest grants were for $400,000 each (to Kevin and Lima for water system improvements and to Bearcreek for a sewer system). Both water projects were also funded by DNRC loans, and the Bearcreek project also had $420,000 in EPA funds. Pinesdale received a grant of $378,105, which was the entire cost of its water system improvements. East Helena received $350,000, with an additional $450,000 from a DNRC coal severance tax loan.

In addition to the eight projects funded in 1985, there were applications from six counties and nine cities. In other words, eight of 23 applicants received grants.

Incorporation and Annexation

At the Subcommittee's fourth meeting, and at its later hearing in Missoula, numerous comments were made about the disadvantages of unincorporated communities and the burden that densely populated but unincorporated ty budgets. Although the Subcommittee ultimately declined to made any recommendations in this area, staff prepared a summary of the current status of annexation and incorporation[10] laws and distributed it to the Subcommittee in August 1986.

Laws Governing Incorporation. Inhabitants of a county who wish to be organized into a city or town may apply by petition to the county commissioners. The petition must be signed by at least two-thirds of the electors residing within the limits of the proposed incorporation. Requirements are as follows:

1. The proposed corporate limits must not exceed one square mile for each 500 inhabitants;
2. The number of inhabitants is at least 300; and

3. The boundary of the proposed territory to be incorporated is at least 3 miles from the nearest boundary of any presently incorporated city or town, or any presently incorporated city or town within 3 miles which legally could annex has refused to annex the proposed territory.

The petition and a map of the proposed territory to be incorporated must be filed in the office of the county election administrator. The board of commissioners must then take a house-to-house census of the residents of the proposed territory. If the number of residents is 300 or more, then the commissioners must call an election of all the registered electors in the proposed territory.

If incorporation is approved, an election of officers must be held after 30 days notice. Every new municipality must elect two aldermen from each ward and a mayor. First- and second-class cities (population 5,000 or more) must also elect a city judge, a city marshall, and a city treasurer.

Most of these provisions, which are now codified in Title 7, chapter 2, part 41, MCA, originally were enacted as territorial law in 1887.

Status of Current Cities and Towns. Montana now has 128 incorporated cities and towns. Two towns incorporated after 1980: Pinesdale, in 1983, and Fort Peck, in 1986. In addition to Fort Peck, which has only 250 residents but is exempt from the population requirement, 25 towns had an estimated 1984 population of less than 300 -- too small to qualify for incorporation as an independent city. Pinesdale's 1984 population was estimated at 523.

Three of Montana's cities were classified as "urbanized areas" in 1980: Billings, Great Falls, and Missoula. (An urbanized area consists of an incorporated place and an adjacent densely settled area that together have a minimum population of 50,000. "Densely settled" generally means 1,000 or more persons per square mile.)

In 1980 the U.S. Census Bureau identified 12 "census designated places," or "closely settled population centers without corporate limit" in Montana. Each of these places has at least 1,000 residents (5,000 in an urbanized area). One was Billings Heights, which was annexed by the city of Billings in 1984. Its 1980 population was 8,480. The others were:

Place Name	County	1980 Population
Malmstrom AFB	Cascade	6,675
Vaughn	Cascade	2,270
Big Fork	Flathead	1,080
Evergreen	Flathead	3,746
Havre North	Hill	1,230
Bonner	Missoula	1,742
East Missoula	Missoula	1,707
Missoula South	Missoula	5,557
Orchard Homes	Missoula	10,837
Rattlesnake	Missoula	3,474
Colstrip	Rosebud	1,476

Only four of these eleven census designated places are far enough from an incorporated city to qualify for incorporation as independent cities: Vaughn, Big Fork, Bonner, and Colstrip. East Missoula and Rattlesnake are outside the Missoula "urbanized area" but less than three miles from the nearest Missoula city limit. For these two areas, and for Evergreen, Havre North, Missoula South, and Orchard Homes, annexation would be more appropriate than incorporation. (If the nearby city refused to annex, however, any of these areas could incorporate independently.)

Apart from the "census designated places," the 12 communities listed below probably are large enough (population over 300) to qualify for incorporation. Although they were too small to be recognized as "census designated places" in 1980, each of them is the central community and only sizeable population center in a Census County Division with a population of at least 600 people in 1980.

Place Name	County	1980 Population Census County Division
Rudyard	Hill	998
Charlo	Lake	1,998
Augusta	Lewis & Clark	847
Lincoln	Lewis & Clark	2,234
Wolf Creek	Lewis & Clark	1,105
Lolo	Missoula	4,871
Seeley Lake	Missoula	2,004
Gardiner	Park	1,069
Victor	Ravalli	1,842
Ashland	Rosebud	564
Absarokee	Stillwater	1,407
Shepherd	Yellowstone	2,550

(Ashland's Census County Division had only 564 people in 1980 but is included because the Rosebud County population, and probably Ashland as well, increased by 33% between 1980 and 1984.)

Laws Governing the Annexation of Territory. The governing body of a municipality that proposes to annex territory must develop a plan for the provision of services to the annexed area. (A city with a population over 10,000 may agree otherwise with the freeholders of the annexed area (7-2-4205, MCA)). The plan must provide for extending police and fire protection, streets and street maintenance, and garbage collection to the annexed area on substantially the same basis and in the same manner as such services are provided to the rest of the city. The tax burden is to be shared by the entire municipality (7-2-4732, MCA).

Most of the procedures for annexation of contiguous or wholly surrounded land were enacted in 1905. The procedures for annexation by petition and for annexation with provision of services were enacted in 1945 and 1974, respectively. The requirement of a plan for services in 7-2-4205, MCA, was added in 1981.

Annexation of Contiguous Land: Under 7-2-4311 through 7-3-4324, MCA, the city council may by resolution declare that it is in the best interest of the city and the inhabitants of the contiguous area to extend the boundaries of the city to include the contiguous area. All owners and purchasers under contract for deed must be notified in writing, and a notice must be published for two successive weeks to the effect that for 20 days after the date of the first publication the city clerk will receive written expressions of approval or disapproval from freeholders of the area to be annexed.

If the city proposing to annex territory is a first-class city (population over 10,000), the city council may not extend the boundaries to include the proposed area if a majority of the resident freeholders disapprove. In smaller cities, a majority of freeholders (not resident freeholders) of the area to be annexed can prevent the city council from annexing the area.

Annexation of Wholly Surrounded Land: A city council may resolve to annex any land wholly surrounded by the city unless it is used for agricultural, mining, smelting, refining, or any industrial or manufacturing purpose, or for maintaining or operating a golf club, athletic field, landing field, cemetery, or place for outdoor entertainment. Provisions for notice are the same as for contiguous land, but annexation proceeds "whether or not a majority of the resident freeholders of the land to be annexed object" (7-2-4501 through 7-2-4503, MCA).

Annexation by Petition: If the city council receives a petition proposing territory to be annexed and signed by at least one-third of the registered electors of the territory proposed to be annexed, it must submit the question of annexation to the electors of the city and of the proposed territory. If the petition is signed by more than 50% of the resident freeholder electors of the territory to be annexed, or by all the property owners in the territory to be annexed, the city council need not submit the question to the electors, but instead may approve or disapprove the petition on its merits. Otherwise, the question of annexation must be submitted to the electors at a special election or at the next general election (7-2-4602, MCA).

Territory that forms any part of any incorporated city or town, and land used for agricultural, mining, smelting, refining, or any industrial or manufacturing purpose, cannot be annexed by petition (7-2-4608, MCA).

Annexation with Provision of Services: The purpose of the "Planned Community Development Act of 1973" (Title 7, chapter 2, part 47, MCA) was "to develop a just and equitable system of adding to and increasing city boundaries for the state of Montana." The Legislature had found that current annexation laws were causing "indiscriminate growth patterns;" that citizens were being annexed without provision for adequate services; and that areas were being created at the edge of cities where people derived benefits without paying their share for services.

A city council may initiate an extension of the corporate limits, or such an extension may be initiated by a petition signed by 51% of the resident freeholders in the area to be included. Notice of a public hearing on the proposed annexation must be published for at least four successive weeks prior to the hearing, and all persons "resident or owning property" in the territory to be annexed must be given an opportunity to be heard.

For 45 days after the hearing the city council must receive written expressions of approval or disapproval from freeholders (any) of the territory to be annexed. If a majority of these freeholders disapprove, no further proceedings can occur for at least one year from the date of disapproval.

Territory annexed under this part must be contiguous to the city's boundaries and must not be included within the boundary of another incorporated municipality. It must be included in, and the proposed annexation must conform to, a master plan as provided in Title 76, chapter 1.

No part of an existing fire district may be included if the fire district was originally organized at least ten years prior to the inception of the proposed annexation, although a single-owner tract may be transferred from a fire district to a municipality by annexation.

Within 30 days after an annexation ordinance has been passed, either a majority of the resident freeholders, or the owners of 75% of the assessed valuation of the real estate in the annexed territory, may file a petition in district court seeking review of the annexation. The court may affirm the action of the city council, or it may remand the ordinance to the city council for further proceedings, for amendment of the boundaries (but not for the purpose of adding additional territory), or for amendment of the plan for providing services.

The 1980 Interim Committee on Annexation Laws. House Joint Resolution 54 (1979) requested a study of all laws relating to annexation "to identify conflicts, duplications, and inadequacies" and to prepare legislation for the 47th Legislature that would provide the state with "a statutory framework which insures a comprehensive and workable approach to annexation."

The interim committee conducted hearings in Billings and Missoula and recommended six bills, three of which were passed by the 1981 Legislature.

City officials testifying at the hearings favored amending the existing "protest" provisions to allow cities to annex unilaterally in some situations, and to give resident and nonresident freeholders the same right of protest. The principal theme in their testimony was the tax burden placed on city residents who were supporting services to nonresidents in the urban fringe areas.

Testimony from representatives of property owner associations, particularly in the Missoula area, emphasized that the city's services were no better than what the county could provide; that county residents supported city services by patronizing city businesses; and that there is no need to amend the annexation laws.

Committee recommendations that were not passed by the Legislature and therefore are not part of current annexation laws include House Bills 56 and 57, which would have removed restrictions on annexing land used for industrial or manufacturing purposes; and House Bill 59, which would have eliminated the distinction between resident and nonresident freeholders in matters of annexation. In addition, the committee split four-to-four, and thus failed to approve House Bill 33, which was a highly controversial proposal to give cities the power to annex densely populated contiguous areas, without provision for protest.

House Bill 33 and two of the three bills killed by the Senate Local Government Committee were opposed by residents of rural Missoula County and the Evergreen area near Kalispell. House Bill 56 and House Bill 57 were opposed by representatives of the wood products and petroleum industries. House Bill 59 was opposed by city officials on the grounds that it would enable nonresident freeholders -- principally out-of-state corporations -- to control annexation.

Legislation Introduced in 1983 and 1985: In 1983, House Bill 643, like House Bill 33 in 1981, would have allowed municipalities to annex contiguous parcels of land with a population density of at least four dwelling units per acre. No provision was made for protest, but the governing body would have been required to include in its resolution of intent a statement estimating what freeholders would have to pay in taxes and fees for city services.

The House passed this bill by a vote of 56 to 41, but the Senate Local Government committee killed it. Most of the people who appeared at the committee hearing were from Missoula and Ravalli counties. Suburban landowners were included among proponents as well as opponents of the bill. City officials from Hamilton and Missoula supported the bill. The mayor of Hamilton stated that if the city could not annex adjoining densely populated areas it eventually would have to disincorporate.

A similar bill was introduced in the 1985 session as House Bill 642. Despite voluminous testimony from proponents of the bill, the House Local Government committee returned an adverse report and the House voted it down 51-49.

House Bill 624 in the 1985 session resurrected one of the bills recommended by the 1980 interim committee. Like 1981's House Bill 56, it would have made it possible for municipalities to annex wholly surrounded land used for industrial or manufacturing purposes. This bill died in the House Local Government Committee.

Testimony at the current interim Subcommittee's hearing on September 30 indicated that the statute protecting rural fire districts from annexation is a serious barrier to orderly development in the Missoula urban area. The 1985 House Local Government Committee killed a bill to remove this provision. At the hearing the bill was opposed by people representing volunteer fire districts and supported primarily by city officials and the League of Cities and Towns. The House voted it down 90-9.

Conclusion. The 1980 interim study on annexation laws is still applicable. Although some of its recommendations were adopted by the 1981 and subsequent Legislatures, most of them were not.

In particular, House Bills 33, 56, and 57 from the 1981 session, House Bill 643 from the 1983 session, and House Bills 624, 642, and 504 from the 1985 session are relevant to infrastructure issues because they would have made it possible for cities to annex the following areas, which now are inaccessible: (a) densely populated contiguous areas that cannot be annexed under current law because of the protest provisions and the statute that protects rural fire districts; and (b) wholly surrounded land used for industrial, manufacturing, and certain other purposes.

Although all these bills were controversial, the first four were approved by the House in 1981 and 1983.

III

ISSUES AND OPTIONS

At its fifth meeting on September 5, 1986 the Subcommittee narrowed its focus to two basic options for state aid to local government and a range of options for enabling local governments to finance capital improvements themselves. Discussion at this meeting was guided by a staff report[11] summarized below.

Coal Severance Tax Bonds for Infrastructure

The first option considered by the Subcommittee was to expand the portion of the water resource development program funded by coal severance tax bonds to include infrastructure projects unrelated to water development.

Under this option, loans to cities and counties for the construction or repair of streets, roads, solid waste facilities, jails, and public buildings would be financed with bonds issued specifically for infrastructure projects. In other words, bonds secured by the coal tax bond fund would be sold to finance loans to cities, counties, and other public entities for infrastructure projects not eligible for loans under the water development program.

Expanding the purpose for which coal tax bonds are sold would require amending Title 17, chapter 5, part 7. In addition, new legislation would be required to enable local governments to repay loans for projects that do not generate revenue from user fees.

Comment by D.A. Davidson and Co. In a communication to staff, D.A. Davidson & Co. suggested that it may not be necessary to create a new bond-pooling program for local government infrastructure projects. They argued that a state bonding program secured by coal severance tax revenues would not provide better market access or lower interest rates for local governments borrowing money for infrastructure projects, and would have other drawbacks as well.

Evidence that a state bond-pooling program would not improve interest rates or market access for local governments comes from a 1985 report by Evensen Dodge, Inc., a consulting firm hired by the Montana Economic Development Board to determine the "economic viability" of implementing the Municipal Finance Consolidation Act.

The Municipal Finance Consolidation Act allows the state to sell a pooled bond issue for local government debt issues under $500,000. (See "Bond Pooling Programs for Local Governments" in Part II.) In their report to the Economic Development Board, Evensen Dodge concluded that there was no justification for proceeding with a pooled municipal bond issue, because "unrated general obligation bonds sold into the Montana market obtain lower interest rates than rated revenue bonds of Montana sold into the national market."

This conclusion is based on a comparison between the 1984 sale of Montana coal severance tax bonds ($10.4 million) and two general obligation bond issues -- one for $1.4 million by Choteau County and one for $153,000 by the Gallatin County School District.

Evenson Dodge also found that Montana local governments can market their bonds with very low "front-end" costs, compared with the costs of structuring, obtaining a rating, and marketing a "Bond Bank" issue.

As for the theory that small issues can't be sold, Evenson Dodge reported that they "are aware of no Montana jurisdiction that has been unable to obtain access to the capital markets because of small issue size and lack of credit rating." This conclusion is based on a comparison between interest rates obtained by small Montana issuers and interest rates obtained by issuers in Minnesota and North Dakota.

D. A. Davidson suggested that a new bond-pooling program would have the following disadvantages:

1. A long-term (20 year) interest subsidy would "lock in" the state's fiscal responsibility, instead of allowing it to allocate funds annually or biannually based on need, coal tax receipts, and budgetary constraints.
2. The proposed bonding programs would not help local governments that are near their statutory debt limitations.
3. Pledging coal tax trust funds as security to bondholders severely limits the state's ability to alter the level of the tax or the disposition of the revenue.

D. A. Davidson recommended that instead of using the coal tax bond program interest rates for local government infrastructure projects, the Legislature adopt the following alternatives:

1. Award grants, rather than loans, to local governments for specific infrastructure projects. A one-time cash subsidy would reduce the amount the

local government would have to borrow and would avoid the drawbacks of a state bonding program.

2. Increase the options available to local governments for securing their obligations. At present local governments are limited by state law to very few options for selling and securing their obligations.

Comment by Agency Admministrators. In response to questions from the Subcommittee, Gary Fritz of the DNRC Water Development Division stated that under the coal severance tax bond program, DNRC had made 49 loans for a total of $47 million. He said that DNRC had been operating the program for about three years and had used approximately one-third of its $150 million authority. He explained that if the flow into the bond fund is $40 million a year, and the water development bond program can obligate two-thirds of it, then the amount available annually is $25 million. Under the "two times coverage" policy, the annual repayment on the bonds DNRC can actually sell is about $12 million. At an interest rate of 10%, with a 20-year term, the total bond sale actually is limited to $120 million. At present the interest rate is 9-3/8%.

Without the "two-times" coverage, the bond rating would be reduced, which could increase the interest rate paid by the state.

Asked why DNRC had issued only $49 million, Mr. Fritz replied that some projects are authorized but not built, or built only after several years' delay. Reasons include lack of technical experience or expertise in small communities; a need to coordinate several funding sources for large projects, which may take several years; and the length of time required to get legislative approval for each project.

Mr. Fritz indicated that he is opposed to the coal severance tax option being considered by the Subcommittee because he expects water projects to absorb all of the existing coal tax bond authority. In any case, 38 of the 49 projects financed by the coal tax bond program have been infrastructure (community water and sewer) projects. And because coal tax bonds are revenue bonds, repaid by the projects financed by their proceeds, they are inappropriate for projects like streets, roads, and bridges, which produce no revenue.

Newell Anderson, administrator of the Local Government Assistance Division in the Commerce Department, told the Subcommittee that his agency has the resources and expertise to operate either a grant program or a loan program for local governments.

The Infrastructure Bank Concept

The second option was to establish a fund, or bank, with a direct appropriation or other funding source and use the money for loans or grants to local governments. This approach has been adopted in other states. The Washington plan, presented to the Subcommittee as a possible model for Montana, was selected because it depends on a financing mechanism that might be feasible in Montana.

The Washington Public Works Trust Fund. The Washington Legislature established this fund in 1985 to provide a dependable long-term source of funds to local governments for the repair and reconstruction of their public works systems. It is financed by 46.5% of the revenue from a statewide real estate conveyance tax of .2%, plus a portion of the state tax on the gross income of water distribution, refuse collection, and sewage collection companies. This money is used for low-interest loans and technical assistance to local governments for the purpose of planning, building, repairing, or replacing streets, roads, bridges, water systems, and sewers. An appointed Public Works Board administers the fund, with staff provided by the state Department of Community Development.

To be eligible for consideration, a local government must have a local realty conveyance tax of .25% and a long-term plan for financing public works, and it must show that it is using all local revenue sources that are reasonably available for funding public works.

Loan applications are reviewed by the board, which submits a prioritized list to the Legislature. The basis for assigning a priority to a project was established by the enabling legislation. The board must consider at least the following factors:

(a) whether the local government requesting the loan is in severe fiscal distress due to natural disaster or emergency public works needs;

(b) whether the project is critical in nature and would affect the health and safety of a great number of citizens;

(c) the cost of the project relative to the size of the local government and the amount of loan money available;

(d) the number of communities served by or funding the project; and

(e) whether the project is located in an area of high unemployment.

Local funds must be used for at least 10% of the project's cost.

In its first year (FY 1986), the trust fund received approximately $18 million. Loan requests totaled $116 million. The board recommended 40 projects, limiting loans to a maximum of $1 million and approving only projects that could be started that year, and awarded $17 million in loans. The 40 recipients included 31 cities, four counties, and five special districts. Nineteen water projects, ten road or street projects, two bridges, and nine sewer projects were funded.

For the second "loan funding cycle" (FY 1987), the loan term is limited to "the expected useful life of the improvements," up to a maximum of 20 years. Eligible projects include streets, roads, bridges, domestic water systems, and storm and sanitary sewers.

Loans will be made to repair or replace public works systems in order to meet current standards or to "adequately serve the needs of existing population." "Growth-related" public works expenditures are not eligible, nor are projects for routine maintenance and operation activities. The maximum loan for a single project is $1 million.

Local jurisdictions must commit locally generated revenue for at least 10% of the cost of the project. Locally-generated revenue consists of the proceeds of general obligation or revenue bonds, local tax revenue, and contributions. The interest on the loan ranges from 1% to 3%, depending on the level of local participation. If local participation is 10%, the interest rate is 3%; if it is 30%, the interest rate is 1%.

Similar Proposals in Montana. Two attempts were made in the 1985 Montana Legislature to establish an "Infrastructure Trust Fund," using coal severance tax revenue. Both proposals would have diverted money from the state general fund and other agencies now funded by coal severance tax revenue.

(1) House Bills 493 through 495 comprised a proposed constitutional amendment, which would have changed the allocation of coal severance tax revenue; a bill to establish the "Montana Infrastructure Trust Fund," consisting of 25% of the coal severance tax collected after July 1, 1987; and a bill to authorize the board of examiners to issue bonds secured by the Infrastructure Trust Fund.

Based on current estimates of coal tax revenue for FY 1987, this trust fund would have received approximately $19 million annually. Under House Bill 494, the constitutional amendment, half the principal was to remain inviolate unless appropriated by a three-fourths vote of each house of the Legislature. The other half was to be pledged for payment or security of infrastructure bonds, and redeposited if not pledged. Proceeds from the bonds were to be used to "construct, improve, and maintain needed capital improvements for public buildings, the highway system, and local government infrastructure or other infrastructure needs."

All three bills passed the House on third reading, with not more than 45 members opposing; and all three died in the Senate Tax Committee.

(2) House Bill 926 would have created a permanent Montana infrastructure trust fund consisting of:

(a) all taxes withheld from wages for the first quarter of FY 1986;

(b) all coal severance taxes owed the state for the same quarter, except for the portion deposited in the permanent trust fund; and

(c) all oil and gas severance taxes owed the state during the same quarter.

The Legislature was authorized to appropriate the income from this fund to "construct, maintain, or preserve the infrastructure of the state, including the university system, counties, and municipalities."

Based on current revenue estimates, the fund would have received $25 to $30 million annually.

House Bill 926 received an adverse report from the House Committee on Taxation, and the House voted it down by a vote of 58 to 40.

New Taxes for Infrastructure

To be approved, new "infrastructure bank" legislation probably would have to be accompanied by a funding source other than a direct appropriation from the coal tax. Alternative sources fall into two categories: those imposed at the state level, and those imposed locally.

Statewide Taxes. Possibilities include: a statewide mill levy; a realty transfer tax; and an additional tax on gasoline.

(1) A statewide mill levy would pool the resources of all cities and counties and thus yield enough money to fund local infrastructure projects on a priority basis around the state. A 6-mill levy would raise an estimated $14 million annually. Proceeds could be used for loans to the counties and communities most in need, perhaps in the same way that infrastructure loans are allocated to cities and counties in Washington.

(2) A realty transfer tax, imposed statewide, would generate $2.6 million dollars annually for each .1% levied. (This is an estimate based on the assumption that 63,000 realty transfer certificates are filed annually, at an average sale price of $42,000.) Proceeds could be used to fund an infrastructure bank instead of being retained by the jurisdiction in which the transfer occurred.

(3) At its present level of 17 cents per gallon, the gasoline license tax generates an estimated $65 million annually. According to an estimate preparedfor the June 1986 special session, each cent added to the gas tax would increase revenue by approximately $3.5 million annually. If the gasoline license tax were increased to 20 cents per gallon, an estimated $10.5 million of new revenue would be available to fund an infrastructure bank.

Local taxes. Possibilities include special improvement district assessments and project-specific taxes on income, payroll, motor vehicles, luxuries, or other goods and services.

(1) Any local government may finance an infrastructure project by forming a special improvement district and assessing a fee to be paid by all residents or property owners. Under current law, the governing body may propose such a district, but if the owners of property that would be assessed for more than half the cost of the proposed district object, the board may not proceed with it for at least six months. (Exceptions are made for sanitary sewer construction and, in cities and towns, for certain paving projects.) (7-12-2112 and 7-12-4113, MCA.)

(2) Local option taxes generally were rejected by the 1985 Legislature. The new "resort tax" is an exception, but in its present form it is available to only six of Montana's 128 incorporated cities and towns. The criteria for a "resort community" could be amended to allow any town with a substantial tourist industry to levy a tax on luxuries and other goods and services sold principally to nonresidents. Examples of towns that could benefit are Alberton, Big Timber, Browning, Ennis, Fort Benton, Lima, Neihart, Philipsburg, St. Ignatius, Superior, Three Forks, and White Sulphur Springs.

Increasing the size of eligible communities, or removing the population criterion altogether, is also a possibility. This would provide a new source of revenue for larger towns and cities that lack a substantial agricultural or natural resource base, such as Anaconda, Livingston, Polson, and Whitefish. Counties with a substantial tourist industry also could be made eligible for the tax, which would mean that it could be imposed in areas with a high demand for services but no incorporated town.

Apart from the resort tax measure, the most successful local option bill in 1985 was House Bill 804, which was approved by the House Local Government Committee but failed on third reading in the House.

House Bill 804 would have authorized any local government to impose certain local option taxes, subject to voter approval. These were: a payroll tax on employers; a fee on light motor vehicles; a sales tax on categories of goods and services established by the electorate; and an income tax (up to 20% of a person's state income tax liability), to be administered by the Department of Revenue.

House Bill 804 did not restrict the purpose of any local option tax or provide for property tax relief.

Subcommittee Discussion. Although some members of the Subcommittee felt that it would be a mistake to propose any new taxes under current economic conditions, they agreed to combine the coal tax bond proposal with a local option tax proposal based on House Bill 804 from the 1985 session. The intent was to allow local governments the option of financing any infrastructure project with a payroll tax, income tax, sales tax, or a vehicle registration fee. Proceeds would be earmarked for a specific infrastructure project and for property tax reduction.

The Subcommittee discussed the possibility of limiting the kinds of projects that could qualify as infrastructure but decided instead to use the comprehensive definition in SJR 42.

Public Hearings

The Subcommittee presented its coal tax bond and local option tax proposals to the public at two hearings, one in Billings and one in Missoula, before making its final recommendations. Testimony presented at these hearings is summarized in Appendix F.

IV

THE LEGISLATIVE PROPOSAL

At its final meeting on October 23, 1986, the Subcommittee again considered the options reviewed at previous meetings, this time with the aid of a staff report containing "pros" and "cons" for each option. A preliminary draft bill was included for each option.[12] Highlights of the discussion follow.

Option 1A: Allocate coal severance tax proceeds to local governments for infrastructure, by means of a state bonding program.

Under this option, local government infrastructure projects would be financed by selling bonds secured by the coal tax bond fund and using the proceeds for loans to cities, counties, and other public entities.

The state would expand the water development program now funded by coal severance tax bonds to include infrastructure projects other than water and sewer systems. Loans to cities and counties for the construction or repair of streets, roads, solid waste facilities, jails, and public buildings would be financed with bonds issued specifically for infrastructure projects. In other words, bonds secured by the coal tax bond fund would be sold to finance loans to cities, counties, and other public entities for infrastructure projects not eligible for loans under the water development program.

Discussion. Staff reported that DNRC opposes this option on the grounds that water development projects will take all of the foreseeable bonding capacity of the coal severance tax. On the other hand, a recent communication from an administrator in the Highway Department suggested that in fact there are not enough water projects to use the bonding capacity.

Robb McCracken of the Local Government Assistance Division in the Department of Commerce said that the Subcommittee should be aware that

> ... our experience indicates that interest rates must be substantially lower than what [local governments] could get through their own bond issue, or through a normal loan. In today's market, we think it will take rates of zero to 3% to make a state loan program successful -- getting the money out there, getting the projects done, at a rate people can afford. . . . Our fear is that there may be a problem getting the money out. You would have to look at DNRC with 7% money and question whether that's a low enough interest rate. To make it work at the state level you've got to get the interest rate substantially lower than they can get with their own bond issue or going to the bank, or else they just will not go through the hassle and the delays. Because decision making is longer at the state and because of the additional paperwork, they just won't do it.

Representative Kitselman announced that he would support a program similar to the water development bonds, but "I'm debating whether or not to use that interest as a grant or a buy-down, and I'm also looking at it being a pool. St. Ignatius has the same needs as Billings, but their bonding capacity is so small that some of the projects they need are just not feasible."

He asked Mr. McCracken what he would suggest as a source of revenue to finance "buying down" interest rates for local governments.

Mr. McCracken replied that the Department of Commerce hadn't considered this question, but that having low interest rates obviously would require a cash subsidy of some kind. "The state of Washington selected a real estate transfer tax. I'm sure they had some of the same concerns that were expressed here, but somehow they made it work."

Senator Fuller suggested a "combination package, that allows local governments to do something, and a secondary element that is a role for the state -- maybe a loan or grant program, or a trust fund of some kind that maybe doesn't kick in for two or four years, until it builds up."

Representative Kitselman agreed that if a local government can help itself and come up with the bonds, "then obviously it doesn't need the pool. If the project is too large for the community to handle, then it would go into the state program."

Representative Kadas suggested requiring "some form of matching effort," and Representative Cody said that she could foresee "a situation where the local government comes up with three-quarters of the project, then we could grant the other quarter, depending on what incentive they have to do that."

Motion. Representative Kitselman moved that the Subcommittee recommend financing infrastructure with coal tax bonds, as a separate program, modelled on the water development bond program but located in the Department of Commerce.

Senator Fuller specified that the program would be operated in the Local Government Assistance Division of the Department of Commerce.

Representative Kadas expressed concern about potential competition for funding between water-resource projects and other infrastructure projects:

> For the first couple of years, each group would be able to put out as many bonds as they want, to meet their program needs. But within five years, both groups will run up against the limit, because of the amount that is coming into the trust. At that point, you could shorten the water development bond program by ten years and so many million dollars. I'm afraid that if we don't set some limits, and say, you can do this much in water development and this much in infrastructure, then the two will be racing each other so they can get as much as they can before the money runs out."

Senator Fuller suggested that the Subcommittee could "accept the argument that local governments can generate their own bonding, and move to more of a trust fund concept," but Representative Kitselman said that he would prefer to adopt the bonding option because "small communities need this help."

Vote: Representative Kitselman's motion passed unanimously.

Option 1B: Allocate coal severance tax proceeds to local governments for infrastructure, by means of an infrastructure trust fund.

Under this option, coal tax revenue would be used to establish a trust fund and award grants and loans to local governments for infrastructure projects.

Essentially, this is the proposal offered by Representative Ramirez in House Bills 493 through 495, in the 1985 Legislature (see Part III above).

These bills would have (a) proposed a constitutional amendment to change the allocation of coal severance tax revenue; (b) established the "Montana Infrastructure Trust Fund," consisting of 25% of the coal severance tax collected after July 1, 1987; and (c) authorized the Board of Examiners to issue bonds secured by the Infrastructure Trust Fund.

If this option were adopted and passed by the voters, only 25% of the coal tax revenue would continue to go into the bond fund and the permanent trust, instead of the 50% the constitution now requires. This amounts to a reallocation of coal tax revenue from the permanent trust, which is invested by the Economic Development Board and the Board of Investments, to an infrastructure trust, half of which would be spent by the Legislature for public works.

Discussion. Senator Harding questioned whether the voters would support the constitutional amendment.

Representative Kadas said, "There's a group of people who would prefer to leave the coal tax the way it is, and there's a group who want to see it reduced. In either case, this option is probably going to get killed."

Motion. No motion was made to consider this option for the Subcommittee's legislative proposal.

Option 2. Create an infrastructure bank, funded by a new statewide tax.

Under this option, a trust fund similar to the one proposed in Option 1B would be financed by a new tax. Two such taxes had been proposed in the 1985 session and were considered again by the Subcommittee.

Suboption 2A: a realty transfer tax. This is the mechanism used to fund Washington's Public Works Trust Fund. A realty transfer tax was proposed during the 1985 session (House Bill 857). It would have imposed a tax of .1% ($1 per $1,000) of the "consideration" paid for the property transferred, as declared on the certificate required under 15-7-305, MCA.

The fiscal note prepared for House Bill 857 estimated that the proposed tax would generate $2.6 million dollars annually, based on 63,000 realty transfer certificates filed annually, at an average sale price of $42,000.

House Bill 857 was rejected by the House Committee on Taxation and voted down by the House on second reading, 58-42.

Discussion. Representative Cody said that she had opposed House Bill 857 but "if CI [Constitutional Initiative] 27 passes, then I think it's a good option. It's not an ongoing expense like the property tax."

Senator Story estimated that a third of Montana's farmers are going to go out of business in the next year. "Already a lot of people are down, and they're not going to be grateful if you impose that tax."

Senator Fuller said that a .1% tax, or $100 on a $100,000 house, would generate about $2.6 million annually. It could be used to begin a trust fund now which would not become operative for several years. "The notion is that it would slowly build up a trust fund. I'm talking about a savings account that would be around four or five years from now and wouldn't be an onerous addition."

Representative Kitselman pointed out that one project costing as much as $8 million would eliminate a small trust fund, and Representative Cody suggested that the estimate of $2.6 million, based on the assumption that 63,000 realty transfer certificates would be filed, was unrealistic: "I can guarantee you it's going to be a lot less."

Motion. No motion was made to consider this option for the Subcommittee's legislative proposal.

Suboption 2B: A statewide hotel-motel tax. This option was considered for the first time at the Subcommittee's final meeting, having been suggested by Senator Halligan at the public hearing in Missoula. It resembles House Bill 392 and Senate Bill 367 (1985 session), both of which had proposed a tax on hotels, motels, and tourist campgrounds. For the 1987 session, the purpose of the tax would be to fund an infrastructure bank.

Senate Bill 367 (sponsored by Senator Halligan) would have made the tax rate 5% and distributed the revenue to (1) to the city (or county) in which the tax was collected (50%); (2) local governments according to the formula used for block grant funds (35%); and (3) the Department of Commerce for the Montana travel promotion program (15%). Use of this revenue by local governments was not restricted.

House Bill 392 would have made the tax rate 10% and allocated 5% of the revenue to the owners or operators of the facility in which the tax was collected as reimbursement for collecting the tax. Otherwise it was identical to Senate Bill 367.

At the 5% rate proposed in Senate Bill 367, this tax would have generated an estimated $8.4 million annually for local governments, and $1.5 million for the Department of Commerce. (Under House Bill 392, local governments would have received an estimated $15.8 annually; the Department of Commerce, $3 million, and hotel/motel/campground operators, $1 million.)

Both bills were supported by city and county officials and opposed by operators. The reimbursement provision in House Bill 392 appeared to have no effect on the testimony in the committee hearing.

For purposes of funding a state infrastructure bank, all of the revenue from this tax would be allocated to the Department of Commerce, to be distributed as grants or loans to local governments that applied for help with specific projects. At a 5% tax rate, total revenue would be an estimated $10 million annually.

Discussion. Staff informed the Subcommittee that Representative Winslow (R-Billings) already had requested a bill to impose a 4% tax on hotels, motels, and campgrounds, with the revenue earmarked entirely for the promotion of tourism. Although the Montana Innkeepers Association opposed the two 1985 bills, they have endorsed Representative Winslow's proposal.

Representative Cody said that the Subcommittee shouldn't even consider a hotel-motel tax. Representative Kitselman said that it would be part of his local option tax proposal.

Motion. No motion was made to consider this option for the Subcommittee's legislative proposal.

Option 3. Authorize local governments to impose certain taxes, subject to approval of the electorate. Local governments (cities, towns, or counties) could propose to finance a specific project by imposing a local income tax, a payroll tax, or a sales tax on certain types of goods and services. The tax could be imposed only with the approval of the voters and only for the time required to finance the project.

This proposal resembles House Bill 804 (1985 session). The House Local Government Committee approved House Bill 804, and the House passed it on second reading but voted it down 43-56 on third reading.

Discussion. Alec Hansen, Executive Director of the League of Cities and Towns, told the Subcommittee that a local option tax bill is the league's first priority for the 1987 session. "I think that local option taxes represent a long-term solution. I don't think it will provide a lot of immediate help. It's going to be very difficult to convince voters to impose a new tax on themselves."

Mr. Hansen said that a bill like House Bill 804 would create a real opportunity:

> It creates an opportunity for city councils and county commissions to work with their people back home to put together financing that's going to work better for that particular community. Every city and town and county in this state is different, with different problems, different economic bases. A local option tax, if the authority is broad enough, can allow you to take advantage of the particular economic conditions in your own community, or to mitigate some of the problems that come with overreliance on property taxes.

Mr. Hansen pointed out that the resort tax in West Yellowstone is a local option tax. It was voted on by the people, by about a two-to-one margin, and it will generate over $750,000 this calendar year. Through the property tax the city of West Yellowstone was able to generate about $97,000 a year, by levying 65 mills. Asked how he would amend House Bill 804, Mr. Hansen said that the league supported the original bill, which was "just a general taxing authority."

> My only objection to House Bill 804 as it came out of the committee was that it doesn't allow for a specific sales tax, such as a hotel/motel tax, or an entertainment tax. We're missing the boat by removing those options. I hope that local option tax bill in 1987 would allow that kind of flexibility.

Mr. Hansen emphasized that a local option tax is not "an immediate solution to the financial problems of local government."

> It's going to take an enormous amount of education before people are going to recognize some of thse opportunities and vote

> to impose a new tax on themselves. You're going to have to guarantee two things: that a service they really need is going to be provided, and that they're going to see some adjustment in the property tax or other payments.

Representative Cody asked what Representative Wallin's concern had been about House Bill 804 in 1985. Representative Kitselman explained that Representative Wallin had a car dealership in Bozeman. If Bozeman passed a sales tax, his vehicles would cost more than comparable vehicles sold outside the city limits.

Another concern was that a small group could be taxed by the majority. "For instance, if you had 57 dry cleaners in a town of 100,000 people, it would be easy to tax all the dry cleaners."

Asked how he would deal with this concern, Mr. Hansen suggested that some commodities could be exempt.

Motion. Representative Kitselman moved that the Subcommittee "back a bill that simply grants local option authority to local governments." He wished to leave it "as broad-based as possible" in order to let local governments decide what they want to do. "It's general, broad-based, permissive legislation."

Representative Kadas said that he questioned this strategy and believed that the Subcommittee would be better off with House Bill 804. "Put in the bill that it is to be for a specific use, require that as part of the language, and that it be for a limited time."

Representative Kitselman replied that he would prefer to have a general, statewide sales tax, but in the meantime, "I think my city council should decide on project specific, time specific, and leave it up to the voters."

Mr. Hansen suggested that the bill require, in the referendum that goes to the voters, a statement of the purpose for which the tax is to be used and the length of time it is to be in effect. Asked if he wanted to accommodate his motion to this suggestion, Representative Kitselman agreed to accommodate.

Representative Kadas asked whether the proposal meant that the type of tax would not be limited in the bill. When Representative Kitselman said it did, Representative Kadas said that he wanted to specify the type of tax. "I think we should start with House Bill 804 and make some adjustments. I'm afraid you're taking a big risk of losing the whole bill."

Representative Kitselman said that MACo, the League of Cities and Towns, and his own city council had told him that they wanted local option authority, not a tax-specific authority. "I think it's important that this committee listen to the people who have testified over the last 18 months."

Vote. The Subcommittee voted unanimously in favor of Representative Kitselman's motion.

Option 4. Extend authorization for the local option "resort tax" to all communities with a substantial tourist industry.

Under 7-6-4461, MCA, a resort community must (a) be incorporated; (b) have less than 2,500 residents; and

(c) derive "the major portion of its economic well-being" from tourism. Only three towns met these criteria in 1985, and only one (West Yellowstone) actually has imposed the tax.

Proposed revisions. (1) The criteria for a "resort community" could be amended to allow any town with a substantial tourist industry to levy a tax on luxuries and other goods and services sold principally to nonresidents. The proposed amendment was to substitute the words "a substantial" for "the major" in 7-6-4461(4), MCA.

(2) The population criterion could be removed. This would make some of the larger towns and cities that lack a substantial agricultural or natural resource base eligible for the tax. The proposed amendment was to remove subsection (4)(b) from 7-6-4461.

Senator Fuller suggested that this option be incorporated into Option 3 (local option taxing authority), but Representative Cody objected that if the local option tax didn't pass, the Subcommittee would need another bill to fall back on.

Motion. Representative Kadas requested that the economic criterion be separated from the population criterion. "I don't have any problem with removing the population criterion, but when you take out "major" and introduce "substantial," your tax is no longer a resort tax, it's a sales tax."

Senator Fuller stated that the motion before the Subcommittee was to amend the resort tax to eliminate the population criterion.

Vote. The Subcommittee voted unanimously for Representative Kadas' motion. No motion was made on the proposed amendment of the economic criterion.

Summary of Recommended Bills

The Subcommittee's three bills are reproduced in Appendix G. Summaries follow.

LC 222, REVISING THE DEFINITION OF A RESORT COMMUNITY FOR PURPOSES OF THE RESORT COMMUNITY TAX. This bill simply amends the resort community tax law by removing the population limit.

LC 223, AUTHORIZING A LOCAL GOVERNMENT TO IMPOSE ANY TYPE OF TAX NOT PROHIBITED BY LAW IF IT IS APPROVED BY THE ELECTORATE. This bill authorizes any city, town, county, or consolidated city-county government to impose an income tax, a sales tax, or any other type of tax not prohibited by law.

The proposal to enable a local government to impose one of these taxes must state the type of tax proposed; the purpose for which the proceeds will be used; and the proposed duration of the tax. Once approved by the voters, the tax cannot be amended or repealed without another vote.

If the local option tax is an income tax, it must be administered by the Department of Revenue. The department would keep up to 1% of proceeds for administering the tax.

The proceeds of a local option tax imposed by a county must be distributed to municipalities in proportion to collections from municipalities, unless otherwise provided by an agreement between the county and the municipalities. If a county imposes a tax already authorized in a municipality, the county tax takes precedence unless it is lower than the municipal tax, in which case the municipal tax takes precedence within the municipality.

LC 224, EXPANDING THE PURPOSE OF COAL SEVERANCE TAX BONDS TO INCLUDE PUBLIC WORKS GENERALLY AND PROVIDING FOR GRANTS AND LOANS TO LOCAL GOVERNMENTS FOR PUBLIC WORKS PROJECTS. Because this bill changes the purpose of an appropriation from the coal severance tax, it requires the approval of three-fourths of each house of the Legislature.

Under this bill, coal severance tax bonds, which now are issued to finance water resource development, would also be issued to finance loans and grants to local governments for public works, which include streets, roads, bridges, water and sewer systems, public health and safety facilities, jails, libraries, and other public buildings.

LC 224 creates two new accounts: (1) a public works debt service account, which would receive half the allocation now dedicated to the water development, or .625% of coal severance tax collections, and payments made on loans to local governments; and (2) a public works special revenue account, which would receive the proceeds of bonds issued for public works, plus any money in the debt service account not required for principal and interest payments on the bonds. The Department of Commerce would administer the new program and recommend specific projects to the Legislature. Projects may not be recommended for funding unless the local government has developed a long-term plan for financing public works and is using all local revenue sources that are reasonably available for financing public works. In addition, the department would be required to prioritize projects in terms of its urgency and the number of people and communities affected.

END NOTES

[1] For a complete account of the Subcommittee's deliberations, including paraphrased discussion in detail, see the minutes of the Subcommittee's six meetings and two public hearings, on file at the Montana Legislative Council.

[2] Governor's Task Force on Infrastructure, Final Report (Helena: Montana Department of Commerce, 1984).

[3] "1985 Legislation Relevant to the Governor's task force on Infrastructure" and "Bills Introduced in Third Special Session, 1985 Legislature, Affecting Infrastructure or Local Government Finance," by Karen Renne, staff researcher for the Joint Interim Subcommittee on Infrastructure.

[4] "Allocation of Montana Coal Severance Tax Revenue" (October 1986 revision), by Karen Renne, staff researcher for the Joint Interim Subcommittee on Infrastructure.

[5] "Taxes for Infrastructure Purposes" (August 1986 revision), by Karen Renne, staff researcher for the Joint Interim Subcommittee on Infrastructure.

[6] See Appendix C for the FY 1986 mill levies and taxable values of Montana cities, towns and counties. Source: Montana Tax Foundation, Montana Property Tax Mill Levies, 1985-86." Population estimates were provided by the Montana Census and Economic Information Center, Montana Department of Commerce, Helena.

[7] "A General Overview of Options and Opportunities to Finance Public Works in Montana" (executive summary), by Mountain International, Inc. for the Montana Department of Commerce, October 1986.

[8] "The 1986 Montana Infrastructure Survey," by Karen Renne, staff researcher for the Joint Interim Subcommittee on Infrastructure, April 1986.

[9] "The Community Development Block Grant Program," by Karen Renne, staff researcher for the Joint Interim Subcommittee on Infrastructure, September 1986. See also Montana Department of Commerce, Montana Community Development Block Grant Program 1985 Application Guidelines, May 1985.

[10] "Laws Governing Incorporation and Annexation in Montana" (revised October 1986) by Karen Renne, staff researcher for the Joint Interim Subcommittee on Infrastructure.

[11] "Options for Funding Local Government Infrastructure" (third draft) and "State Funding for Local Government Infrastructure Projects -- A Supplement to the 'Options' Paper," by Karen Renne, staff researcher for the Joint Interim Subcommittee on Infrastructure, September 1986.

[12] "Funding Local Government Infrastructure: Options, Issues, and Sample Bills -- A Discussion Paper," by Karen Renne, staff researcher for the Joint Interim Subcommittee on Infrastructure, October 1986.

APPENDIX A

"Montana's Infrastructure Crisis"

Exhibit #4
Subcommittee on Inf.
August 2, 1985

MONTANA'S INFRASTRUCTURE CRISIS

A Report to the State

MONTANA TRAVEL PROMOTION PHOTO

More Montana people are hearing the phrase "infrastructure crisis," on the news and in statements by politicians wrestling with public budgets.

What is the so-called "infrastructure," and what "crisis" exists?

The term defines the totality of facilities, public and private, that serve basic transportation and utility functions.

Our perspective in examining the state's infrastructure is to consider these extensive facilities as an investment which, like a home or an automobile, deserves protection if only to prevent a decline in the dollar value they represent.

Then why haven't more funds been allocated for public works projects? An infrastructure crisis update published by the AGC (Associated General Contractors) reveals that "for the last 20 years or so, capital spending on public works — at all levels of government — has been competing with service spending — and losing."

Montana infrastructure is a problem needing immediate attention. Unaddressed it will continue to decline and the costs of replacing these vital systems will escalate beyond the limits of our funding capacity altogether.

What Does This Mean in Montana?

In January of 1984, Governor Ted Schwinden appointed a Task Force on Infrastructure to look into this question. The charge of the Task Force was:

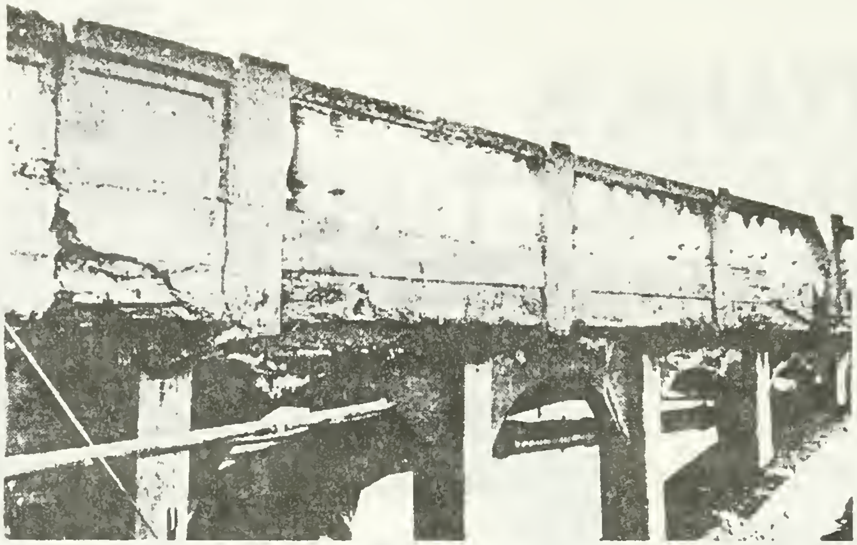
> "To look at ways to improve the quality and quantity of investment in capital facilities which are the responsibility of Montana counties, incorporated cities and towns."
>
> "To compile information on the replacement and new construction needs of counties, incorporated cities and towns of Montana for basic public works and present this information to Montana citizens."
>
> "To research administrative and legislative changes that could be made to facilitate flexibility in financing capital construction and good management in planning and operating capital facilities at the local level and bring these recommendations to the attention of the public and the appropriate government officials."

The Task Force is preparing its final report and recommendations through the fall of 1984, for presentation to the Governor and the Legislature prior to the 1985 session.

What is the status of Montana infrastructure? Consider these situations:

BRIDGES

Local governments are responsible for construction, reconstruction or rehabilitation of all bridges on all public roads and streets in Montana which are not under State or Federal jurisdiction. In addition, local governments are responsible for maintaining all bridges on public roads and streets in Montana which are not the maintenance responsibility of the State or Federal government.



There are 2,142 bridges located on city and county jurisdiction roads and streets. 919 of these are structurally deficient, and in need of replacement, 798 bridges are structurally obsolete and in need of rehabilitation.

At todays costs $72.5 million will be needed to replace the 919 structurally deficient bridges and $27.5 million to rehabilitate or replace the 798 structurally obsolete bridges. Therefore, it will cost $100 million to meet todays needs for local jurisdiction bridge systems.

ROADS

Maintenance of streets and roads is largely the responsibility of local governments. These streets and roads are a vital portion of our transportation network.

There are approximately 78,000 miles of roads, streets and highways in Montana. Of this total, only 8,000 miles are the maintenance responsibility of the State Highway Department. The vast majority, or 70,000 miles, fall entirely to local governments to maintain. This amounts to almost 90 percent of our motor vehicle network.

This responsibility falls into two categories: roads, that are the responsibility of the counties; and streets, that are the responsibility of municipalities. It is estimated that the local share of county road responsibility for 63,546 miles is $6.4 billion dollars. The local share for the 2,442 miles of streets has been estimated at $1.1 billion. This makes the total amount of investment necessary from the local level for streets and roads $7.5 billion dollars. Adding in State and Federal assistance, the total comes to over $8 billion.

AIRPORTS

If Montana has one problem that is more significant than any others in completing airport improvement plans, it is that of land acquisition. Difficulties in acquiring land have resulted in the creation of a sort of endangered airports list.

Currently 55 percent (64 out of 116) of Montana's airports are in need of repairs or reconstruction. Capital improvement funds from state and federal souces are available to 58 percent of the Montana airports, while the remaining 42 percent must rely on self-funding for capital improvements. Local revenue sources include loan programs, parking lot fees, hangar rental, fuel flowage fees, and some larger airports collect landing fees from commercial airlines. In addition, local governments have authorized a two mill levy for airport maintenance and improvement.

Because only 5-10 projects per year are possible under the federal grant/state match program, it will take 6-12 years to address current (1984) needs, since the federal grant/state match program will provide only $17,874,000 of the total $19,819,000 needed. However, since it will take the program 6-12 years to meet current needs, presumably, any new needs identified in subsequent years will not be met.

JAILS

In Montana, the county government usually operates local jails. There are 53 county government detention facilities in Montana. The county sheriff is legally responsible for inspecting the jail and providing funds to assure the facility meets health, safety, fire, and separation requirements. All offenders who violate state law must, by law, be held in the county jail. All juveniles held for offenses must, by law, be held in county jails.

The current status of Montana jails is as follows:

- Out of a total of 53 county jails in the state, only one jail clearly meets current jail standards. Thus, the remaining 52 jails will need rehabilitation, expansion, or replacement.
- A total of 21 out of 53 county detention facilities were build or underwent a major renovation previous to 1955. Since a detention facility has a normal lifetime of 30 years, at least 21 facilities will need to be completely renovated or replaced.

- A recent study conducted by the Crime Control Division indicates that local government officials estimate that the current need for county jail rehabilitation, expansion or replacement is at least $56,713,373. This figure is the aggregate need statewide for all Montana local governments.
- There are 16 municipal jails in Montana. Since most municipal jails are located in small cities and towns there is a possibility that those municipalities with sub standard facilities might close the jails and contract with their county.

A total need of $56,713,373 has been identified for county detention facilities. The financial cost for separate juvenile facilities is currently unknown. There is no total need figure available for the 16 municipal jails in the State. However, many planned jail upgrades have repeatedly stalled due to voter rejection of bond issues. For the foreseeable future it appears local governments will continue to provide the predominate share of the cost for jail upgrades.

SOLID WASTE

Local governments and private entities are responsible (and liable) for the financing, operation and maintenance of Montana's Waste Management Systems. Waste Management includes: landfills (fencing, equipment, equipment storage, etc.), transfer stations, and incineration systems. Most local governments own their landfill property; however, some are leased from private, state or federal owners.

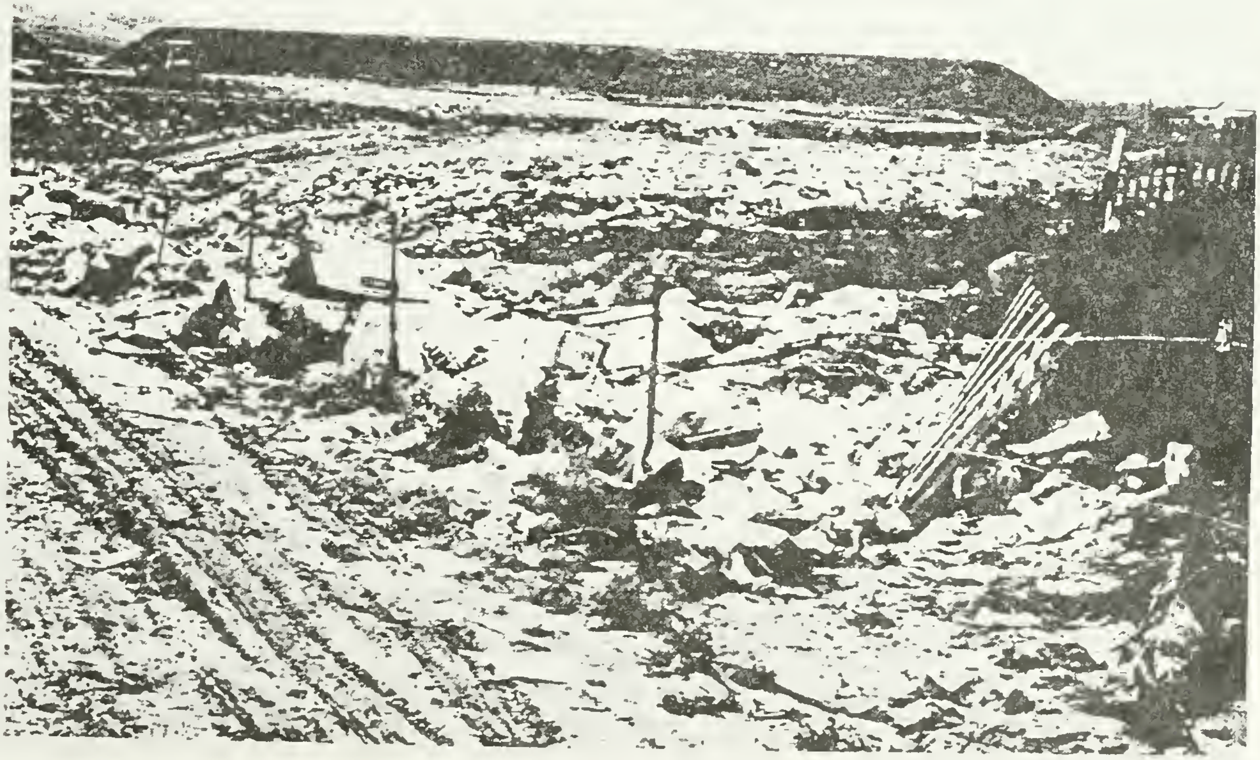
This facility provides basic protection to human health and the environment by maintaining adequate waste management services statewide. This program also administers and enforces the legislative statutes and companion rules for solid waste disposal and septic tank pumpers.

Solid waste management disposal needs for the State of Montana are estimated at a cost of $6,550,000. A national rule of thumb indicates that disposal costs are only 25 percent of the overall, therefore, an estimated $19,650,000 is needed for collection which is totally a local responsibility.

Nine percent of Montana's population is being served by solid waste systems that are out of compliance with Department of Health and Environmental Sciences standards. It will cost $1 million to bring these into compliance and another $5.4 million to maintain all systems at a compliance level (includes operational costs). The total annual bill for statewide compliance is $6.4 million. Ten Montana counties have not met the needs for solid waste planning studies at a cost of $150,000.

COMMUNITY WATER SYSTEMS

The primary function of a water system is to provide a safe and convenient supply of water for drinking, fire protection and irrigation. The capacity of a system must be large enough to support "peak" personal and commercial demands, as well as accommodate community growth.



A total of 264 capital project needs have been reported by Montana's incorporated cities and towns. The physical needs are:

- 134 distribution projects
- 55 supply projects
- 45 storage projects
- 30 treatment projects

In addition, there are rural water systems. Thirty-five percent of the 279 rural water systems are in need of major upgrading to bring them into compliance with the "10" State Water Quality Standards. It is also felt that 55 percent of these rural systems have insufficient financial resources for repair or replacement of existing facilities, and that some daily financial obligations cannot be met.

Because there is no comprehensive database on the need for improvements to water systems in Montana it is impossible to arrive at an accurate estimate of need. However, we do know from the joint efforts of the Montana Contractors' Association, Inc. and the Montana League of Cities and Town's survey of incorporated cities/towns, that a minimum need of $100 million has been identified.

DAMS

Dams in the Treasure State are regarded as the State's Life Line. They are the source of city water supply, and provide for flood control and recreation, some generate hydro electric power and many supply irrigation to ranchers and farmers and their livestock.

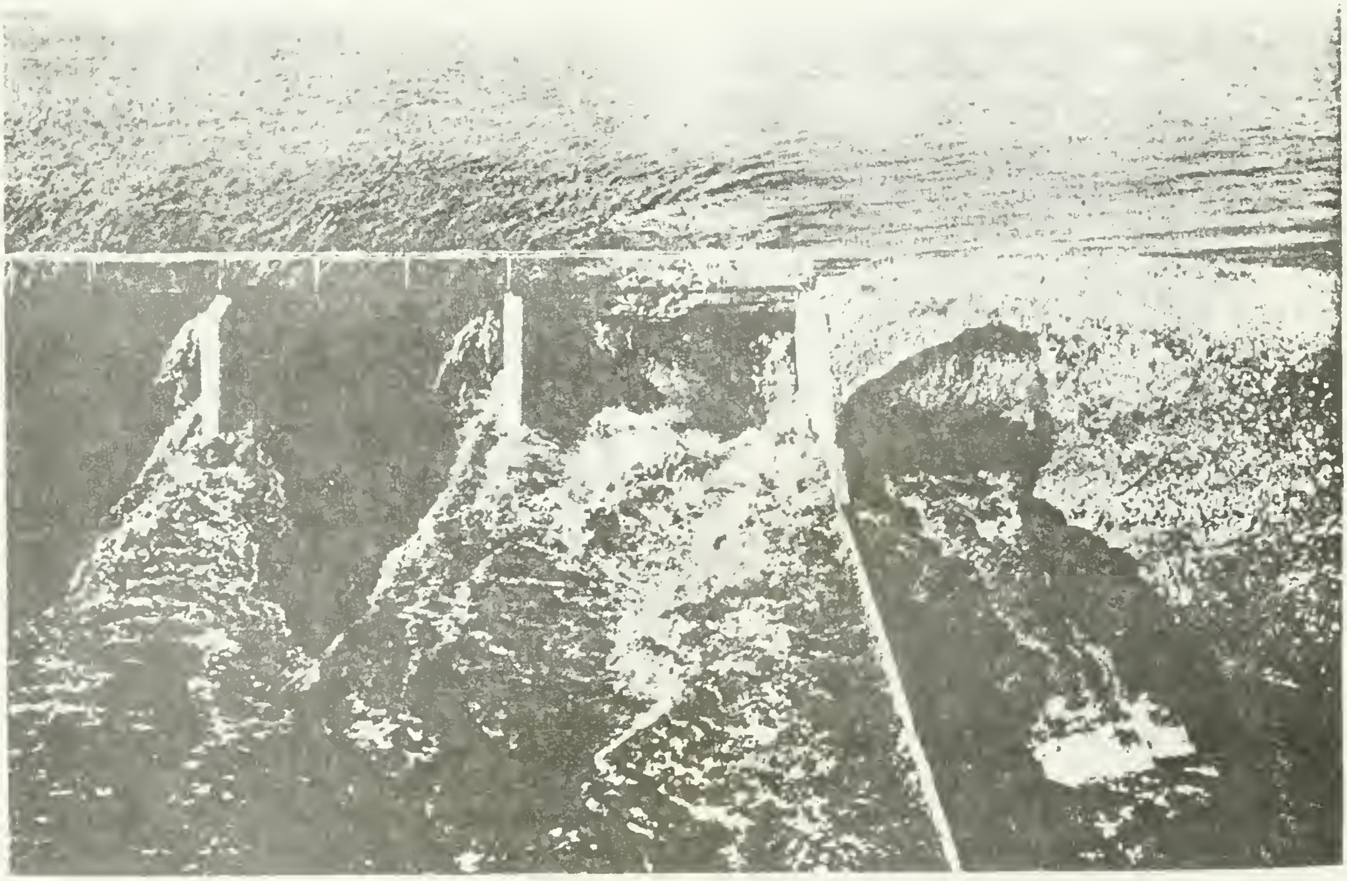
But the Life Line is about to be broken, in the case of many of our states dams.

Montana Department of Natural Resources and Conservation, with the Corps of Engineers, found that there are a total of 804 such structures in the state that show a potential for hazard. Of these, 672 are said to have significant hazard potential. That is, they pose some threat to human life, but mainly pose a threat for economic loss.

Of far greater concern are the 132 dams that are ranked as having a high hazard potential because a break or failure in any of these would claim more than a few human lives, and the economic losses would be excessive.

Montana's last fatal dam failure was in 1964 when the Swift and Two Medicine dams broke, killing 19 people and causing millions of dollars in damage. Unfortunately, it often seems the only interest for dam safety is when there is a loss of lives and property.

The State of Montana owns 36 significant hazard structures and 28 high hazard dams, while cities hold title to 13 dams that are significant hazards and 17 high hazard dams. Counties claim only two dams that are rated as significant hazards and three that fit the definition of high hazard dams.



WASTEWATER TREATMENT AND DISPOSAL

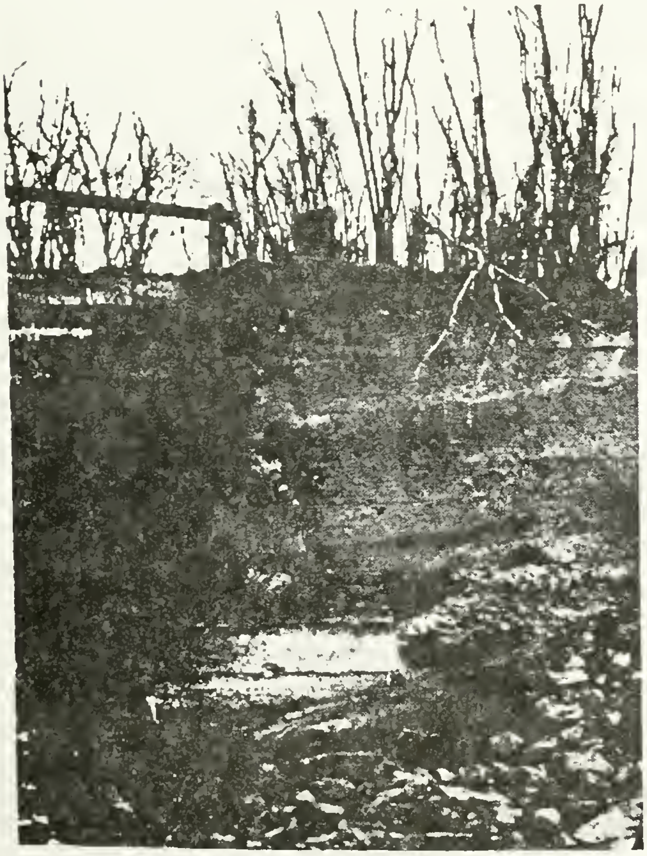
The local authority (city, county or sewer district) is charged with the physical and financial responsibility of operating and maintaining its wastewater facility. Depending upon what type of governing authority is present, the decision makers are the city council, county commissioners or a sewer board.

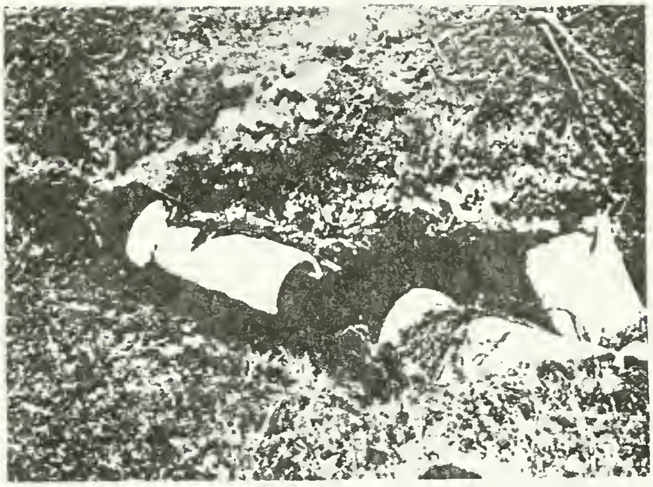
There are no universal figures which tell us how many public and private wastewater facilities exist in Montana. However, we do have some 1982 population data: 69 percent of the population reflected needs for construction of new systems or that of bringing old systems up to standards. The remaining 31 percent, according to the population study, had no existing need.

The 1984 evaluation of 203 public systems for which information exists illustrates a monetary need of $231,276,000. This cost figure includes projected capacity demands, necessary for population growth of 20 years (2004).

WHO'S AT BAT?

There are two aspects of the problem we can improve in Montana. The first of these is to become more knowledgeable as citizens about our own local public facilities. Ultimately, it is the responsibility of each local community to determine its own priorities and needs for capital investment. We can help by actively supporting our local officials in prioritizing local needs for replacement or rehabilitation, and recognizing our responsibility to help pay the costs involved. We need to find ways to ensure that local public facilities are operated in a cost efficient manner — including charging for a facility based on the amount of use (where charging is possible), and not deferring maintenance.





In many communities, Montana taxpayers are facing major capital expenditures. However, the alternative is clear. If we fail to reinvest in our public works now, costs in the future will only escalate as deterioration proceeds unchecked.

The second aspect of the problem that we can work to improve is the role that State government plays in planning and financing local public works. Local governments must comply with State statutes in planning and financing local public works. Many of these statutes are outmoded and actually add to the costs of replacing or maintaining local infrastructure by unnecessarily restricting local flexibility and authority. Many of the recommendations of the Task Force identify these statutes and propose changes in State law.

In addition, State government administers a number of grant, loan and bonding programs that actively contribute to local financing. State government also provides technical assistance for planning a broad range of public facilities. Unfortunately, most State and local officials are not aware of the full range of financial and technical assistance currently available. The Task Force has also recommended that all this information be pulled together into one place and made readily accessible to State and local officials.

For more information.

This publication is brought to you as a public service by the Montana Contractors' Association, Inc. For more information about Infrastructure, contact:

Community Development Division
Montana Department of Commerce
Cogswell Building, Room C211
Capitol Station
Helena, Montana 59620

Montana Contractors' Association, Inc.
P.O. Box 4519
HELENA, MONTANA 59604

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APPENDIX B

Coal Severance Tax Allocation
1986-1987

ALLOCATION OF MONTANA COAL SEVERANCE TAX REVENUE
1986-87

	FY 1986 Income*	FY 1987 Income*	Percent of Total Revenue	
			FY 1986	FY 1987
A. TAX COLLECTIONS				
Permanent Trust	$ 42,108,606	$ 39,590,000	50.00	50.00
General Fund	$ 20,001,588	$ 19,290,172**	23.76	24.36**
Education Trust Fund	$ 8,421,721	0	10.00	0.00
Local Impact	$ 2,526,516	$ 1,090,392	3.00	1.38
School Equalization Fund	$ 4,210,861	$ 10,451,960	5.00	13.20
Parks Acquisition Trust	$ 2,105,430	0	2.50	0.00
Highway Reconstruction Trust	$ 1,684,344	$ 6,144,486	2.00	7.76
Alternative Energy Research	$ 1,052,715	$ 870,997	1.25	1.10
State Library	$ 421,086	$ 348,399	.50	.44
County Land Planning	$ 421,086	$ 348,399	.50	.44
Conservation Districts	$ 210,543	$ 174,199	.25	.22
Renewable Resource Bonds	$ 526,358	$ 435,498	.625	.55
Water Development Bonds	$ 526,358	$ 435,498	.625	.55
TOTAL TAX REVENUE	$ 84,217,213	$ 79,181,516	100.00	100.00

---

*FY 1987 tax revenue and distribution estimated by the Governor's Office of Budget and Program Planning, November 13, 1986. Total tax revenue does not include credits for new coal production ($282,717 in FY 1986 and $1,477,000 in FY 1987).

**Includes $1,000,000 (1.3% of total tax revenue) diverted from the Local Impact account for FY 1987.

	FY 1986 Income*	FY 1987 Income*	Percent of Interest
B. INTEREST FROM THE PERMANENT TRUST			
General Fund:	$ 32,443,208	$ 33,612,000	85.00
Returned to Permanent Trust:	5,725,018	5,932,000	15.00
C. INTEREST FROM EDUCATION TRUST			
School Equalization:	$ 7,759,479	$ 7,610,000	67.50
Board of Regents:	2,586,493	2,537,000	22.50
Vo-Techs & Adult Education:	1,149,552	1,127,000	10.00
D. PARKS ACQUISITION TRUST			
Fish, Wildlife, and Parks:	$ 1,682,115	$ 1,391,000	66.67
Montana Arts Council:	840,931	696,000	33.33
TOTAL INTEREST INCOME	$ 52,186,796	$ 52,905,000	
TOTAL REVENUE	$136,404,009	$132,086,516	

D. Trust Fund Balances on June 30, 1986

Permanent Trust	$ 268,234,509
In-state Investment Fund	31,920,751
Education	79,761,708
Parks Acquisition	16,222,131

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*Interest income and year-end fund balances reported by the Office of Budget and Program Planning (November 13, 1986)

APPENDIX C

POPULATION, MILL VALUE, AND GENERAL FUND LEVY

for

Montana Cities, Towns, and Counties

Table 1
MUNICIPAL POPULATION, MILL VALUE, AND GENERAL FUND LEVY

CITIES: 1984 POPULATION

		FY 1986 MILL VALUE	GENERAL FUND LEVY
First class (10,000 or more)			
Anaconda*	Deer Lodge	$ 4,445	76.9
Billings	Yellowstone	122,730	66.3
Bozeman	Gallatin	22,482	72.1
Butte*	Silver Bow	44,455	72.6
Great Falls	Cascade	60,000	63.8
Havre	Hill	9,806	69.1
Helena	Lewis & Clark	33,130	55.5
Kalispell	Flathead	15,761	72.0
Missoula	Missoula	47,221	80.2
Second Class (5,000 - 9,999)**			
Glendive	Dawson	6,898	93.1
Lewistown	Fergus	4,897	56.3
Livingston	Park	7,127	89.8
Miles City	Custer	9,418	73.6
Third Class (2,500 - 6,999)**			
Belgrade	Gallatin	2,619	57.7
Columbia Falls	Flathead	3,485	78.2
Conrad	Pondera	2,868	65.0
Cut Bank	Glacier	3,503	48.3
Deer Lodge	Powell	2,988	64.9
Dillon	Beaverhead	3,287	26.8
Forsyth	Rosebud	2,168	98.2
Glasgow	Valley	4,369	107.8
Hamilton	Ravalli	3,341	57.5
Hardin	Big Horn	3,139	63.7
Laurel	Yellowstone	5,565	66.3
Libby	Lincoln	3,426	63.0
Plentywood	Sheridan	2,462	92.1
Polson	Lake	3,101	65.0
Shelby	Toole	2,561	79.1
Sidney	Richland	6,315	68.2
+ Whitefish	Flathead	5,137	87.2
Wolf Point	Roosevelt	2,501	65.0

---

*Consolidated city-county government.

**Cities with a population of 5,000 to 7,499 may be either second or third class. Miles City is the only second-class city with a population over 7,500. Laurel and Sidney are the only third-class cities with a population over 5,000.

CITIES AND TOWNS 1984 POPULATION*

Third Class (1,000 - 2,499)		FY 1984 MILL VALUE	GENERAL FUND LEVY
Baker	Fallon	$ 2,122	122.0
Big Timber	Sweet Grass	1,441	103.7
Chinook	Blaine	1,255	100.0
Choteau	Teton	1,544	60.0
East Helena	Lewis & Clark	3,698	59.0
Fort Benton	Chouteau	1,510	77.1
Harlowton	Wheatland	766	85.7
Malta	Phillips	2,586	65.0
Poplar**	Roosevelt	661	65.0
Red Lodge	Carbon	2,439	81.5
Ronan	Lake	1,413	59.5
Roundup	Musselshell	1,551	65.0
Scobey	Daniels	1,204	53.9
Townsend	Broadwater	1,578	65.0
White Sulphur	Meagher	840	65.0
Towns (1,000 - 1,999)			
Boulder	Jefferson	708	65.0
Browning	Glacier	391	65.0
Chester**	Liberty	781	59.0
Columbus	Stillwater	1,485	79.7
Culbertson**	Roosevelt	715	65.0
Eureka	Lincoln	771	65.0
Fairview	Richland	800	50.0
Manhattan**	Gallatin	771	61.0
Philipsburg	Granite	583	67.5
Plains	Sanders	1,014	65.0
Stevensville	Ravalli	975	65.0
Thompson Falls	Sanders	1,237	72.9
Three Forks	Gallatin	967	65.0
Troy	Lincoln	778	65.0
Whitehall	Jefferson	845	65.5

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*Municipalities with a population of 1,000 to 2,499 may be either a third-class city or a town. All of the municipalities opting for "town" classification had a population under 2,000.

** Population was 500-999 in 1980

TOWNS: 1984 POPULATION

(500 - 999)		MILL VALUE	GENERAL FUND LEVY
Belt	Cascade	$ 378	116.0
Big Sandy	Chouteau	669	47.8
Bridger	Carbon	594	65.0
Broadus	Powder River	648	73.2
Cascade	Cascade	521	65.0
Circle	McCone	850	99.7
Darby	Ravalli	400	64.9
Ekalaka	Carter	373	65.0
Ennis	Madison	734	62.4
Fairfield	Teton	609	65.0
Fromberg	Carbon	300	79.5
Harlem*	Blaine	683	88.0
Hot Springs	Sanders	335	77.0
Joliet	Carbon	492	65.0
Lodge Grass	Big Horn	202	65.0
Nashua	Valley	310	62.0
Pinesdale	Ravalli	123	65.0
St. Ignatius	Lake	382	65.0
Sheridan	Madison	588	65.0
Stanford	Judith Basin	473	65.0
Sunburst	Toole	270	101.4
Superior*	Mineral	824	55.1
Terry	Prairie	656	89.4
Valier	Pondera	566	65.0
Walkerville	Silver Bow	273	46.0
West Y'stone	Gallatin	1,653	75.0
Wibaux	Wibaux	602	65.0
(300 - 499)			
Alberton	Mineral	192	65.0
Brockton	Roosevelt	91	36.0
Denton	Fergus	266	83.9
Drummond	Granite	301	140.0
Dutton	Teton	319	88.0
Froid	Roosevelt	246	70.0
Hysham	Treasure	305	65.0
Jordan	Garfield	348	55.0
Lima**	Beaverhead	160	113.2
Medicine Lake	Sheridan	269	65.0
Richey	Dawson	286	65.0
Ryegate**	Golden Valley	214	60.0
Twin Bridges	Madison	401	62.0
Westby**	Sheridan	206	65.0

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* Population 1,000-1,999 in 1980

** Population under 300 in 1980

TOWNS: 1984 POPULATION FY 1986 GENERAL Under 300
MILL VALUE FUND LEVY

Bainville	Roosevelt	$ 187	65.0
Bearcreek	Carbon	39	62.5
Broadview	Yellowstone	149	61.0
Clyde Park	Park	182	74.0
Dodson	Phillips	107	65.0
Flaxville	Daniels	105	32.0
Fort Peck	Valley	(incorporated 1986)	
Geraldine*	Chouteau	260	65.0
Grass Range	Fergus	76	57.4
Hingham	Hill	194	39.0
Hobson	Judith Basin	165	65.0
Ismay	Custer	31	13.0
Judith Gap	Wheatland	86	42.0
Kevin	Toole	98	63.0
Lavina	Golden Valley	141	58.0
Melstone	Musselshell	160	65.0
Moore	Fergus	140	17.0
Neihart	Cascade	111	65.0
Opheim	Valley	161	65.0
Outlook	Sheridan	87	28.5
Plevna	Fallon	108	46.0
Rexford	Lincoln	64	16.5
Saco	Phillips	191	122.0
Virginia City	Madison	180	50.3
Winifred	Fergus	87	48.1
Winnett	Petroleum	116	93.0

---

* Population of 300 or more in 1980

Table 2
COUNTY POPULATION, MILL VALUE, AND SELECTED MILL LEVIES

	1984 POPULATION	1986 MILL VALUE	1986 MILL LEVIES	
			General	Roads
First Class				
Big Horn	11,542	$ 127,787	16.61	7.84
Cascade	81,815	91,643	25.00	15.00
Fallon	3,769	123,486	2.50	9.46
Flathead	53,900	87,916	25.00	15.00
Gallatin	47,584	62,531	24.53	15.00
Lewis & Clark	45,766	61,857	16.00	15.00
Missoula	76,540	122,310	33.15	14.58
Powder River	2,489	52,422	12.31	10.70
Richland	14,365	112,927	5.85	15.00
Roosevelt	11,581	79,770	12.96	2.87
Rosebud	13,159	237,854	6.44	5.86
Sheridan	5,945	94,258	.25	12.00
Valley	9,998	50,510	6.20	15.00
Yellowstone	118,741	200,170	19.90	15.00
Second Class				
Blaine	7,063	44,329	12.34	15.00
Carbon	8,613	30,044	24.95	11.79
Chouteau	6,175	30,540	21.31	15.00
Glacier	11,296	48,825	20.18	15.00
Hill	18,546	49,358	16.54	15.00
Lincoln	18,665	35,862	12.38	0.00
Phillips	5,686	38,313	5.00	10.00
Silver Bow	35,201	43,274	72.62	10.02
Toole	5,742	48,533	5.08	11.11
Third Class				
Dawson	12,721	29,362	23.62	15.00
Fergus	12,929	22,273	22.68	15.00
Lake	20,420	26,996	24.86	15.00
Liberty	2,547	21,905	15.44	15.00
Musselshell	4,708	29,154	5.84	4.69
Pondera	7,072	24,460	25.00	15.00
Ravalli	24,832	24,655	25.00	15.00
Sanders	9,203	21,020	24.55	15.00
Teton*	6,444	20,737	25.00	18.00
Wibaux	1,493	25,340	25.00	15.00

---

*Fourth class in FY 1985

	1984 POPULATION	1986 MILL VALUE	1986 MILL LEVIES	
			General	Roads
Fourth Class				
Custer	13,461	$ 18,545	27.00	18.00
Park	13,278	18,912	27.00	16.30
Jefferson	8,041	17,395	27.00	18.00
Madison	5,842	17,678	27.00	10.18
Stillwater	6,018	15,391	28.35	17.74
Fifth Class				
Beaverhead	8,728	14,671	25.00	13.00
Broadwater	3,423	11,349	26.55	18.00
McCone	2,705	10,834	24.77	18.00
Powell	6,876	14,229	27.00	14.00
Sixth Class				
Carter	1,763	8,110	27.00	18.00
Daniels	2,777	8,078	27.00	17.96
Deer Lodge	11,207	9,349	144.11	86.53
Garfield	1,702	7,604	22.00	16.00
Golden Valley	1,099	5,301	20.20	18.00
Granite	2,815	5,615	27.00	1.80
Judith Basin	2,705	9,407	29.30	20.51
Meagher	2,234	8,109	25.82	9.23
Prairie	1,867	6,682	23.57	14.52
Sweet Grass	3,303	6,913	36.90	18.00
Wheatland	2,308	7,141	27.00	18.00
Seventh Class				
Mineral	3,693	4,647	26.98	0.00
Petroleum	674	2,969	7.25	6.00
Treasure	1,015	4,662	27.00	18.00

APPENDIX D

QUESTIONNAIRES AND LIST OF PARTICIPANTS
1986 Montana Infrastructure Survey

The Big Sky Country

MONTANA STATE SENATE

SENATOR DAVID (SPIKE) FULLER
ASST MAJORITY WHIP

HOME ADDRESS
1030 SIERRA ROAD WEST
HELENA, MONTANA 59601
HOME PHONE (406) 458-9104

COMMITTEES
LOCAL GOVERNMENT CHRM
LEGISLATIVE AUDIT
BUSINESS AND INDUSTRY
NATURAL RESOURCES
LONG RANGE PLANNING

December 12, 1985

Anna Whorton
City Clerk
P.O. Box 1178
Billings MT 59103

Sample

Dear Ms. Whorton:

I am writing on behalf of the Montana Legislature's Interim Subcommittee on Infrastructure to ask for your help. Our mission, as stated in Senate Joint Resolution 42, is to "examine various approaches and mechanisms to improve the planning, funding, and maintenance of local government infrastructure." To carry out this mission, we are using the enclosed questionnaire to collect information about the current infrastructure needs of Montana's local governments.

Please let us know your government's needs and priorities by completing and returning this questionnaire as soon as possible. Please consult appropriate staff members as needed, but remember that we need your information by January 10, 1986. We have sent a questionnaire to every county and municipality in the state, and we hope to hear from a majority of these governments in time to review the information at our next meeting, on January 24th.

If you have any questions about this survey, please call our researcher, Karen Renne, at 444-3064, or write to her at the address on the enclosed envelope. Thank you for taking the time to contribute to our study.

Sincerely yours,

Dave Fuller

Senator Dave Fuller
Chairman

CITY________________________

SURVEY OF LOCAL GOVERNMENT INFRASTRUCTURE

1. Please rate the current physical condition of the following facilities in your community. For each facility, circle the number under the heading that best describes its current condition.

	IN GOOD CONDITION	NEEDS REPAIRS	NEEDS MAJOR REHABILITATION	NEEDS REPLACEMENT	NOT SURE	DOES NOT APPLY TO THIS CITY*
Water Supply	1	2	3	4	5	9
Water Storage	1	2	3	4	5	9
Water Distribution	1	2	3	4	5	9
Water Treatment	1	2	3	4	5	9
Sewage Collection	1	2	3	4	5	9
Sewage Treatment	1	2	3	4	5	9
Solid Waste Disposal	1	2	3	4	5	9
Streets and Roads	1	2	3	4	5	9
Bridges and Overpasses	1	2	3	4	5	9
Jail	1	2	3	4	5	9
Library	1	2	3	4	5	9
Hospital or Nursing Home	1	2	3	4	5	9
Other (specify: ________________)	1	2	3	4	5	9

*Note: Circle the "9" if your city is not responsible for the maintenance, repair, or replacement of this facility.

2. Can your city bear the cost of repairing, rehabilitating, or replacing these facilities? For each facility that is not currently in good condition, please indicate the degree to which your city is able to finance the needed repair, rehabilitation, or replacement. Circle the number under the heading that best describes your city's situation.*

	CAN FINANCE OUT OF OWN RESOURCES	VERY DIFFICULT TO FINANCE WITHOUT HELP	NEED STATE OR FEDERAL AID FOR UP TO HALF THE COST	NEED STATE OR FEDERAL AID FOR MORE THAN HALF THE COST	NOT SURE
Water Supply	1	2	3	4	5
Water Storage	1	2	3	4	5
Water Distribution	1	2	3	4	5
Water Treatment	1	2	3	4	5
Sewage Collection	1	2	3	4	5
Sewage Treatment	1	2	3	4	5
Solid Waste Disposal	1	2	3	4	5
Streets and Roads	1	2	3	4	5
Bridges and Overpasses	1	2	3	4	5
Jail	1	2	3	4	5
Library	1	2	3	4	5
Hospital or Nursing Home	1	2	3	4	5
Other (specify: ________)	1	2	3	4	5

* Note: If you circled "1" (IN GOOD CONDITION) or "9" (DOES NOT APPLY) in Question 1, do not rate that facility here.

3. Please estimate the capacity of each of these facilities to meet the needs of your community, assuming that repairs are completed. (This is a question about size, not condition.) For each facility, circle the number under the heading that best describes your city's situation.

	ADEQUATE FOR AT LEAST THE NEXT 5 YEARS	MEETS EXISTING NEED BUT WILL BE INADEQUATE BY 1990	DOES NOT MEET EXISTING NEED	DOES NOT APPLY TO THIS CITY*
Water Supply	1	2	3	9
Water Storage	1	2	3	9
Water Distribution	1	2	3	9
Water Treatment	1	2	3	9
Sewage Collection	1	2	3	9
Sewage Treatment	1	2	3	9
Solid Waste Disposal	1	2	3	9
Streets and Roads	1	2	3	9
Bridges and Overpasses	1	2	3	9
Jail	1	2	3	9
Library	1	2	3	9
Hospital or Nursing Home	1	2	3	9
Other (specify: ______________)	1	2	3	9

*Note: Circle the "9" if your city is not responsible for the maintenance, repair, or replacement of this facility.

4. For each facility you rated "3" (DOES NOT MEET EXISTING NEED) in Question 3, indicate below why it does not meet existing need. Circle the number under the heading that comes closest to describing the primary reason, as you see it.

	DETERIORATION DUE TO AGE	DEFERRED MAINTENANCE	INCREASED DEMAND FOR SERVICE	NEW REGULATORY STANDARDS	OTHER*
Water Supply	1	2	3	4	5
Water Storage	1	2	3	4	5
Water Distribution	1	2	3	4	5
Water Treatment	1	2	3	4	5
Sewage Collection	1	2	3	4	5
Sewage Treatment	1	2	3	4	5
Solid Waste Disposal	1	2	3	4	5
Streets and Roads	1	2	3	4	5
Bridges and Overpasses	1	2	3	4	5
Jail	1	2	3	4	5
Library	1	2	3	4	5
Hospital or Nursing Home	1	2	3	4	5
Other (specify: ______________)	1	2	3	4	5

*Note: Please use the space below, or additional pages, to explain what the "other" primary reason is. If you circled "5" (OTHER) more than once, be sure to indicate which facility each of your answers refers to.

5. Among the facilities you rated as needing rehabilitation or replacement in Question 1, or as indequate in Question 3, which three have the highest priority for capital improvements* in your community? Circle the appropriate number for each of the top three.

	FIRST PRIORITY	SECOND PRIORITY	THIRD PRIORITY
Water Supply	1	2	3
Water Storage	1	2	3
Water Distribution	1	2	3
Water Treatment	1	2	3
Sewage Collection	1	2	3
Sewage Treatment	1	2	3
Solid Waste Disposal	1	2	3
Streets and Roads	1	2	3
Bridges and Overpasses	1	2	3
Jail	1	2	3
Library	1	2	3
Hospital or Nursing Home	1	2	3
Other (specify: ________________________)	1	2	3

*Note: "Capital improvements" are major improvements, costing more than $5,000 and expected to last at least 5 years. Do not include routine expenditures for operation and maintenance or minor equipment purchases.

6. For each of the three highest-priority projects you checked in Question 5, what is the estimated cost of the needed repair, replacement, or expansion? Please write an "X" in the appropriate space under each heading.

	FIRST-PRIORITY PROJECT	SECOND-PRIORITY PROJECT	THIRD-PRIORITY PROJECT
Under $500,000	____	____	____
$500,000 - 999,999	____	____	____
$1,000,000 - 4,999,999	____	____	____
$5,000,000 - 9,999,999	____	____	____
$10,000,000 - 19,999,999	____	____	____
$20,000,000 - 49,999,999	____	____	____
$50,000,000 or more	____	____	____
No estimate available	____	____	____

7. For each of your city's three highest-priority projects, please indicate which of the following sources your city expects to use for most (more than half) of the money. Check more than one source only if the cost will be divided equally among two or more sources.

	FIRST-PRIORITY PROJECT	SECOND-PRIORITY PROJECT	THIRD-PRIORITY PROJECT
Earmarked revenue	____	____	____
Gasoline tax	____	____	____
Local property taxes	____	____	____
User fees	____	____	____
General obligation bonds	____	____	____
Revenue bonds	____	____	____
State funds	____	____	____
Federal funds	____	____	____
Other (please specify: ______________)	____	____	____
Sources not known	____	____	____

8. Has your city ever "privatized" any public facility by contracting with a private enterprise, either to provide the service or to build, operate, and maintain a facility owned by the city?

____YES (please answer Questions (a), (b), and (c) below)

____NO (please go on to Question 9)

If YES: (a) describe the circumstances; (b) tell us whether "privatizing" this facility reduced or increased your city's costs; and (c) indicate whether your city plans to use this method for financing any other public works projects in the future. (Use additional pages if necessary.)

(a) Circumstances?

(b) Effect on costs?

(c) Other projects your city plans to "privatize?"

9. In funding public works projects generally, have you found that state laws or state government regulations make it difficult for your city to plan, finance, or carry out these projects?

____YES (please complete the rest of this question)

____NO (please go on to Question 10)

If YES: please use this space to describe a recent example of such a project, the difficulties your city experienced, and any suggestions you have for improving the situation. (Use additional pages if necessary.)

10. Name and position of person who completed this questionnaire:

Name____

Position in city government__________________________________

Telephone number_______________________

Thank you for your help!

PLEASE RETURN THIS QUESTIONNAIRE BY JANUARY 10, 1986, TO:

Karen Renne
Legislative Council
State Capitol
Helena, Montana 59620

COUNTY ______________________

SURVEY OF
LOCAL GOVERNMENT INFRASTRUCTURE

1. Please rate the current physical condition of the following facilities in your county. For each facility that is the county's responsibility, circle the number under the heading that best describes its current condition.

	IN GOOD CONDITION	NEEDS REPAIRS	NEEDS MAJOR REHABILI- TATION	NEEDS REPLACE- MENT	NOT SURE	DOES NOT APPLY*
Roads	1	2	3	4	5	9
Bridges and Overpasses	1	2	3	4	5	9
Solid Waste Disposal	1	2	3	4	5	9
Water Supply	1	2	3	4	5	9
Water Storage	1	2	3	4	5	9
Water Distribution	1	2	3	4	5	9
Water Treatment	1	2	3	4	5	9
Sewage Collection	1	2	3	4	5	9
Sewage Treatment	1	2	3	4	5	9
Jail	1	2	3	4	5	9
Library	1	2	3	4	5	9
Hospital or Nursing Home	1	2	3	4	5	9
Other (specify: ______________)	1	2	3	4	5	9

*Note: Circle the "9" if your county has no responsibility for maintaining, repairing, or replacing this facility.

2. Can your county bear the cost of repairing, rehabilitating, or replacing these facilities? For each facility that is not currently in good condition, please indicate the degree to which your county is able to finance the needed repair, rehabilitation, or replacement. Circle the number under the heading that best describes your county's situation.*

	CAN FINANCE OUT OF OWN RESOURCES	VERY DIFFICULT TO FINANCE WITHOUT HELP	NEED STATE OR FEDERAL AID FOR UP TO HALF THE COST	NEED STATE OR FEDERAL AID FOR MORE THAN HALF THE COST	NOT SURE
Roads	1	2	3	4	5
Bridges and Overpasses	1	2	3	4	5
Solid Waste Disposal	1	2	3	4	5
Water Supply	1	2	3	4	5
Water Storage	1	2	3	4	5
Water Distribution	1	2	3	4	5
Water Treatment	1	2	3	4	5
Sewage Collection	1	2	3	4	5
Sewage Treatment	1	2	3	4	5
Jail	1	2	3	4	5
Library	1	2	3	4	5
Hospital or Nursing Home	1	2	3	4	5
Other (specify: ____________)	1	2	3	4	5

* Note: If you circled "1" (IN GOOD CONDITION) or "9" (DOES NOT APPLY) in Question 1, do not rate that facility here.

3. Please estimate the capacity of each of these facilities to meet the needs of the population your government serves, assuming that repairs are completed. (This is a question about size, not condition.) For each facility, circle the number under the heading that best describes your county's situation.

	ADEQUATE FOR AT LEAST THE NEXT 5 YEARS	MEETS EXISTING NEED BUT WILL BE INADEQUATE BY 1990	DOES NOT MEET EXISTING NEED	DOES NOT APPLY*
Roads	1	2	3	9
Bridges and Overpasses	1	2	3	9
Solid Waste Disposal	1	2	3	9
Water Supply	1	2	3	9
Water Storage	1	2	3	9
Water Distribution	1	2	3	9
Water Treatment	1	2	3	9
Sewage Collection	1	2	3	9
Sewage Treatment	1	2	3	9
Jail	1	2	3	9
Library	1	2	3	9
Hospital or Nursing Home	1	2	3	9
Other (specify: ______________)	1	2	3	9

*Note: Circle the "9" if your county has no responsibility for maintaining, repairing, or replacing this facility.

4. For each facility you rated "3" (DOES NOT MEET EXISTING NEED) in Question 3, indicate below why it does not meet existing need. Circle the number under the heading that comes closest to describing the primary reason as you see it.

	DETERIORATION DUE TO AGE	DEFERRED MAINTENANCE	INCREASED DEMAND FOR SERVICE	NEW REGULATORY STANDARDS	OTHER*
Roads	1	2	3	4	5
Bridges and Overpasses	1	2	3	4	5
Solid Waste Disposal	1	2	3	4	5
Water Supply	1	2	3	4	5
Water Storage	1	2	3	4	5
Water Distribution	1	2	3	4	5
Water Treatment	1	2	3	4	5
Sewage Collection	1	2	3	4	5
Sewage Treatment	1	2	3	4	5
Jail	1	2	3	4	5
Library	1	2	3	4	5
Hospital or Nursing Home	1	2	3	4	5
Other (specify: ________________)	1	2	3	4	5

*Note: Please use the space below, or additional pages, to explain what the "other" primary reason is. If you circled "5" (OTHER) more than once, be sure to indicate which facility each of your answers refers to.

5. Among the facilities you rated as needing rehabilitation or replacement in Question 1, or as inadequate in Question 3, which three have the highest priority for capital improvements* in your county? Circle the appropriate number for each of the top three.

	FIRST PRIORITY	SECOND PRIORITY	THIRD PRIORITY
Roads	1	2	3
Bridges and Overpasses	1	2	3
Solid Waste Disposal	1	2	3
Water Supply	1	2	3
Water Storage	1	2	3
Water Distribution	1	2	3
Water Treatment	1	2	3
Sewage Collection	1	2	3
Sewage Treatment	1	2	3
Jail	1	2	3
Library	1	2	3
Hospital or Nursing Home	1	2	3
Other (specify: ______________________)	1	2	3

*Note: "Capital improvements" are major improvements, costing more than $5,000 and expected to last at least 5 years. Do not include routine expenditures for operation and maintenance or minor equipment purchases.

6. For each of the three highest-priority projects you checked in Question 5, what is the estimated cost of the needed repair, replacement, or expansion? Write an "X" in the appropriate space under each heading.

	FIRST-PRIORITY PROJECT	SECOND-PRIORITY PROJECT	THIRD-PRIORITY PROJECT
Under $500,000	____	____	____
$500,000 - 999,999	____	____	____
$1,000,000 - 4,999,999	____	____	____
$5,000,000 - 9,999,999	____	____	____
$10,000,000 - 19,999,999	____	____	____
$20,000,000 - 49,999,999	____	____	____
$50,000,000 or more	____	____	____
No estimate available	____	____	____

7. For each of your county's three highest-priority projects, please indicate which of the following sources the county expects to use for most (more than half) of the money. Check more than one source only if the cost will be divided equally among two or more sources.

	FIRST-PRIORITY PROJECT	SECOND-PRIORITY PROJECT	THIRD-PRIORITY PROJECT
Earmarked revenue	____	____	____
Gasoline tax	____	____	____
Local property taxes	____	____	____
User fees	____	____	____
General obligation bonds	____	____	____
Revenue bonds	____	____	____
State funds	____	____	____
Federal funds	____	____	____
Other (please specify: ______________)	____	____	____
Sources not known	____	____	____

8. Has your county ever "privatized" any public facility by contracting with a private enterprise, either to provide the service or to build, operate, and maintain a facility owned by the county?

____YES (please answer Questions (a), (b), and (c) below)

____NO (please go on to Question 9)

If YES: (a) describe the circumstances; (b) tell us whether "privatizing" this facility reduced or increased your county's costs; and (c) indicate whether your county plans to use this method for financing any other public works projects in the future. (Use additional pages if necessary.)

(a) Circumstances?

(b) Effect on costs?

(c) Other projects your county plans to "privatize?"

9. In funding public works projects generally, have you found that state laws or state government regulations make it difficult for your county to plan, finance, or carry out these projects?

____YES (please complete the rest of this question)

____NO (please go on to Question 10)

If YES: please use this space to describe a recent example of such a project, the difficulties your county experienced, and any suggestions you have for improving the situation. (Use additional pages if necessary.)

10. Name and position of person who completed this questionnaire:

Name________________________________

Position in county government__________________________

Telephone number___________________

Thank you for your help!

PLEASE RETURN THIS QUESTIONNAIRE BY JANUARY 10, 1986, TO:

Karen Renne
Legislative Council
State Capitol
Helena, Montana 59620

CITIES AND TOWNS RESPONDING TO 1986 INFRASTRUCTURE SURVEY

CITY	POPULATION 1984	CITY	POPULATION 1984
BILLINGS	69836	WHITEHALL	1066
GREAT FALLS	58769	SUPERIOR	984
BUTTE	34462	TERRY	981
MISSOULA	33447	ST IGNATIUS	964
HELENA	24643	BIG SANDY	809
BOZEMAN	23462	WIBAUX	754
HAVRE	11152	BRIDGER	754
KALISPELL	11069	WALKERVILLE	739
MILES CITY	9786	BROADUS	734
ANACONDA	9302	VALIER	699
LIVINGSTON	6931	ENNIS	676
LEWISTOWN	6895	FAIRFIELD	649
SIDNEY	6877	NASHUA	596
LAUREL	6416	DARBY	583
GLENDIVE	6407	EKALAKA	569
GLASGOW	4217	STANFORD	563
DILLON	4207	FROMBERG	525
WHITEFISH	3914	PINESDALE	523
CUT BANK	3895	HYSHAM	486
HARDIN	3463	MEDICINE LAKE	465
WOLF POINT	3263	TWIN BRIDGES	456
COL FALLS	3243	RICHEY	402
SHELBY	3169	DUTTON	400
CONRAD	3056	BROCKTON	380
HAMILTON	2876	FROID	350
FORSYTH	2764	DENTON	338
LIBBY	2597	HOBSON	289
MALTA	2481	KEVIN	255
BAKER	2332	CLYDE PARK	250
EAST HELENA	2056	MELSTONE	247
CHOTEAU	1721	SACO	241
FORT BENTON	1679	WINNETT	237
CHINOOK	1646	MOORE	229
STEVENSVILLE	1641	JUDITH GAP	218
COLUMBUS	1536	VIRGINIA CITY	214
THOMPSON FLS	1521	OPHEIM	203
FAIRVIEW	1507	HINGHAM	197
BOULDER	1484	DODSON	175
WHITE SULPHUR	1382	LAVINA	171
THREE FORKS	1364	PLEVNA	169
SCOBEY	1363	REXFORD	166
PHILIPSBURG	1310	WINIFRED	150
BROWNING	1291	OUTLOOK	139
EUREKA	1195	FLAXVILLE	138
PLAINS	1178	NEIHART	111
MANHATTAN	1167	BEARCREEK	68
POPLAR	1110	ISMAY	28

COUNTIES RESPONDING TO 1986 INFRASTRUCTURE SURVEY

COUNTY	1984 POPULATION
YELLOWSTONE	201971
CASCADE	81815
MISSOULA	76450
FLATHEAD	53900
LEWIS & CLARK	45766
SILVER BOW	34462
RAVALLI	24832
LAKE	20420
LINCOLN	18665
HILL	18546
RICHLAND	14365
CUSTER	13461
PARK	13278
FERGUS	12929
DAWSON	12721
BIG HORN	11542
DEER LODGE	11207
PONDERA	7072
BLAINE	7063
POWELL	6876
TETON	6444
CHOUTEAU	6175
STILLWATER	6018
SHERIDAN	5945
MADISON	5842
TOOLE	5742
PHILLIPS	5686
MINERAL	3693
DANIELS	2777
MCCONE	2705
LIBERTY	2547
POWDER RIVER	2489
MEAGHER	2234
PRAIRIE	1867
CARTER	1763
GARFIELD	1702

CITY	FIRST PRIORITY*
ANACONDA	JAIL
BAKER	COLLECT
BEARCREEK	COLLECT
BIG SANDY	DISTRIB
BILLINGS	ROADS
BOULDER	NONE
BOZEMAN	STORAGE
BRIDGER	COLLECT
BROADUS	DISTRIB
BROCKTON	COLLECT
BROWNING	NONE
BUTTE	JAIL
CHINOOK	SUPPLY
CHOTEAU	NONE
CLYDE PARK	STORAGE
COLUMBIA FALLS	ROADS
COLUMBUS	DISTRIB
CONRAD	SUPPLY
CUT BANK	ROADS
DARBY	NONE
DENTON	SUPPLY
DILLON	SUPPLY
DODSON	OTHER
DUTTON	SUPPLY
EAST HELENA	SUPPLY
EKALAKA	SEWAGE
ENNIS	OTHER
EUREKA	ROADS
FAIRFIELD	ROADS
FAIRVIEW	WATER
FLAXVILLE	WATER
FORSYTH	ROADS
FORT BENTON	DISTRIB
FROID	SUPPLY
FROMBERG	SOLID
GLASGOW	SUPPLY
GLENDIVE	WATER
GREAT FALLS	WATER
HAMILTON	DISTRIB
HARDIN	COLLECT
HAVRE	DISTRIB
HELENA	WATER
HINGHAM	SOLID
HOBSON	NONE
HYSHAM	SEWAGE
ISMAY	SOLID
JUDITH GAP	SUPPLY
KALISPELL	ROADS
KEVIN	STORAGE
LAUREL	DISTRIB
LAVINA	ROADS
LEWISTOWN	DISTRIB
LIBBY	WATER
LIVINGSTON	DISTRIB
MALTA	SEWAGE
MANHATTAN	WATER
MEDICINE LAKE	SUPPLY
MELSTONE	SUPPLY
MILES CITY	NONE
MISSOULA	NONE
MOORE	STORAGE
NASHUA	NONE
NEIHART	DISTRIB
OPHEIM	SOLID
OUTLOOK	NONE
PHILIPSBURG	COLLECT
PINESDALE	SUPPLY
PLAINS	SUPPLY
PLEVNA	STORAGE
POPLAR	SOLID
REXFORD	NONE
RICHEY	SUPPLY
SACO	SOLID
SCOBEY	STORAGE
SHELBY	SOLID
SIDNEY	NONE
ST IGNATIUS	ROADS
STANFORD	SUPPLY
STEVENSVILLE	ROADS
SUPERIOR	ROADS
TERRY	NONE
THOMPSON FALLS	SEWAGE
THREE FORKS	SUPPLY
TWIN BRIDGES	DISTRIB
VALIER	COLLECT
VIRGINIA CITY	NONE
WALKERVILLE	ROADS
WHITE SULPHUR	SUPPLY
WHITEFISH	ROADS
WHITEHALL	SEWAGE
WIBAUX	STORAGE
WINIFRED	NONE
WINNETT	SOLID
WOLF POINT	SEWAGE

*See next page

COUNTY	FIRST PRIORITY*	COUNTY	FIRST PRIORITY*
BIG HORN	ROADS	MCCONE	ROADS
BLAINE	NONE	MEAGHER	NONE
CARTER	ROADS	MINERAL	JAIL
CASCADE	BRIDGES	MISSOULA	JAIL
CHOUTEAU	ROADS	PARK	ROADS
CUSTER	BRIDGES	PHILLIPS	BRIDGES
DANIELS	SOLID	PONDERA	JAIL
DAWSON	ROADS	POWDER RIVER	BRIDGES
DEER LODGE	JAIL	POWELL	BRIDGES
FERGUS	NONE	PRAIRIE	JAIL
FLATHEAD	JAIL	RAVALLI	JAIL
GARFIELD	HOSPITAL	RICHLAND	NONE
GOLDEN VALLEY	NONE	SHERIDAN	ROADS
HILL	ROADS	SILVER BOW	JAIL
LAKE	ROADS	STILLWATER	SOLID
LEWIS & CLARK	COLLECT	TETON	OTHER
LIBERTY	JAIL	TOOLE	STORAGE
LINCOLN	BRIDGES	WIBAUX	JAIL
MADISON	BRIDGES	YELLOWSTONE	DISTRIB

---

* Code:

SUPPLY = Water Supply
STORAGE = Water Storage
DISTRIB = Water Distribution
WATER = Water Treatment
COLLECT = Sewage Collection
SEWAGE = Sewage Treatment
SOLID = Solid Waste Disposal

ROADS = Roads and Streets
HOSPITAL = Hospital or Nursing Home
OTHER = Buildings, storm drains garbage trucks

APPENDIX E

INFRASTRUCTURE SURVEY RESULTS

Table 1

CONDITION OF PUBLIC FACILITIES IN CITIES AND TOWNS*

	Percent Reporting Facility			
	In Good Condition	Needs Repairs	Needs Major Rehabilitation or Replacement	Number of Cities Reporting**
WATER				
Supply	54	23	23	83
Storage	64	22	14	83
Distribution	33	38	29	86
Treatment	63	10	27	59
SEWAGE				
Collection	53	22	25	87
Treatment	62	18	20	77
SOLID WASTE	51	11	38	53
STREETS	18	45	37	93
BRIDGES	27	53	20	15
JAIL	53	13	33	15
LIBRARY	68	15	17	41

---

* Two facilities (Hospital and Other) are omitted here because fewer than ten respondents indicated their physical condition.

**Excludes respondents who either indicated that their city was not responsible for the facility or did not report its condition.

Table 2

CAPACITY OF CITY FACILITY TO MEET COMMUNITY NEEDS

	Percent Reporting that the Facility is:			
	Adequate for At Least the Next 5 Years	Meets Existing Need But Will Be Inadequate by 1990	Does Not Meet Existing Need	Number Responding*
WATER				
Supply	70	12	18	84
Storage	66	16	18	83
Distribution	56	24	20	86
Treatment	69	14	17	58
SEWAGE				
Collection	64	24	12	87
Treatment	72	15	14	81
SOLID WASTE	55	20	26	51
STREETS	47	22	31	91
BRIDGES	69	6	25	16
JAIL	53	12	35	17
LIBRARY	77	14	9	43

---

*Excludes respondents who did not know whether capacity was adequate, as well as those who had indicated that their city was not responsible for the facility.

Table 3

CITY PRIORITIES FOR CAPITAL IMPROVEMENTS

	Percentage Distribution		
	First Priority	Second Priority	Third Priority
WATER			
Supply	21	12	5
Storage	9	3	7
Distribution	14	22	10
Treatment	9	13	3
SEWAGE			
Collection	9	16	9
Treatment	8	9	10
SOLID WASTE	10	4	12
STREETS	16	13	33
BRIDGES	0	0	2
JAIL	2	0	2
LIBRARY	0	3	5
HOSPITAL	0	0	0
OTHER	2	6	2
ALL RESPONDING CITIES AND TOWNS*	100	100	100
(Number)	(80)	(69)	(58)

*Each column includes respondents who had indicated in previous questions that at least three, two, or one of these facilities was inadequate or needed rehabilitation or replacement.

Note: In some cases a priority was assigned by a respondent who had indicated that the facility met existing needs but would be inadequate by 1990.

Table 4

CONDITION OF PUBLIC FACILITIES IN COUNTIES*

	Percent Reporting Facility			
	In Good Condition	Needs Repairs	Needs Major Rehabilitation or Replacement	Number of Counties Reporting**
ROADS	11	58	31	36
BRIDGES	5	42	53	36
JAIL	35	6	59	34
LIBRARY	66	28	7	29
HOSPITAL	58	25	17	24
SOLID WASTE	78	9	13	23

---

*Water, sewage, and other facilities are omitted here because fewer than ten respondents indicated their physical condition.

**Excludes respondents who either indicated that their county was not responsible for the facility or did not report its condition.

Note: For each facility, the total number of respondents is 36. Butte-Silver Bow and Anaconda-Deer Lodge are not included.

Table 5

CAPACITY OF COUNTY FACILITY TO MEET EXISTING NEEDS

	Percent Reporting that the Facility: Is Adequate for At Least the Next 5 Years	Meets Existing Need But Will Be Inadequate by 1990	Does Not Meet Existing Need	Number Responding*
ROADS	42	39	19	36
BRIDGES	31	22	47	36
JAIL	33	11	56	36
LIBRARY	73	14	14	30
HOSPITAL	67	8	25	24
SOLID WASTE	62	29	10	21

---

*Excludes respondents who did not know whether capacity was adequate, as well as those who had indicated that their county was not responsible for the facility.

Table 6

COUNTY PRIORITIES FOR CAPITAL IMPROVEMENTS*

	Percentage Distribution		
	First Priority	Second Priority	Third Priority
ROADS	29	31	12
BRIDGES	23	24	33
JAIL	27	7	38
LIBRARY	0	10	0
HOSPITAL	3	10	17
SOLID WASTE	7	0	0
OTHER**	11	18	0
ALL COUNTIES RESPONDING (Number)	100 (31)	100 (29)	100 (24)

---

*Each column includes respondents who had indicated in previous questions that at least three, two, or one of these facilities was inadequate or needed rehabilitation or replacement.

Note: In some cases a priority was assigned by a respondent who had indicated that the facility met existing needs but would be inadequate by 1990.

APPENDIX F

PUBLIC COMMENT ON SUBCOMMITTEE PROPOSALS

September 1986

PUBLIC HEARINGS
September 1986

The subcommittee presented its coal tax bond and local option tax proposals to the public at two hearings, one in Billings and one in Missoula, before making its final recommendations. Testimony presented at these hearings is summarized here. A more complete account is available in the subcommittee minutes for September 16 and September 30, 1986.

Billings

At the subcommittee hearing in Billings on September 16, Karma Ruder and Kay Foster, representing the City of Billings, presented a slide show, with sound, on the need to fund infrastructure projects with local option taxes.

The theme of the presentation was that lost federal revenue sharing dollars, reduced funds for Community Development Block Grants, and inadequate reimbursement from the state for motor vehicle fees, have made it imperative for the legislature to give local governments a broad-based authority for local option taxes.

Billings' current general levy of 66 mills (its charter limit is 74) is not enough even to fund law enforcement and fire protection. The city has estimated that in the next 19 years $140 million will be needed for street and road improvements, but only $60 million in probable revenue has been identified. An annual set-aside of $1 million for preventive maintenance will be $8.5 million short of the projected need.

Ms. Ruder and Ms. Foster further explained their proposal after the presentation. They advocate voter-approved taxes for specific purposes, with an automatic sunset provision. In their view, local option taxes match the funding source with the beneficiary; maximize local accountability; and make it possible to reduce property taxes.

Ms. Ruder stated that under its charter, Billings should have this kind of taxing authority without legislative authorization, but having "lost that battle," they are now seeking a law that will give Billings and any other Montana city the authority to refer local option taxes to the voters. Without this authority, cities have only property taxes, service charges, and license fees for revenue.

Ms. Foster pointed out that different taxes would be appropriate for different cities, and that the local residents should decide for themselves how much they wanted to spend for specific purposes, and what kind of tax should be used. For example, a personal income tax probably would not be popular in Billings, but a hotel/motel tax or "some kind of retail sales tax" would be well received.

Senator Keating (R, Billings) said that he agreed with the local option tax concept, if the tax is for a specific purpose, but he opposes any use of a statewide levy to redistribute money. Referring to the use of oil severance tax revenue to compensate counties for lost motor vehicle taxes, he said that the people of northeastern Montana shouldn't have to pay for license plates in Yellowstone County. Increasing the oil severance tax to pay for the shortfall in reimbursements to counties was not justified, and it discouraged companies from investing in Montana oil.

Representative Asay (R, Forsyth) also supported the concept of local option taxes and opposed the use of coal severance tax revenue to develop water resources.

Ms. Foster asked whether the subcommittee's local option tax proposal had to be tied to its proposal to use coal severance tax bonds to finance infrastructure projects. She said that Billings didn't want its $14 million bridge to compete with a $500,000 project in Broadus.

Senator Keating announced that he had come to discourage the subcommittee from even considering using coal tax funds for infrastructure or anything else, for three reasons:

(1) Montana's coal in the ground does not belong to the people of Montana; it is either private property or it belongs to the public domain and should be leased for a fee. There is no justification for using a tax on coal for general statewide purposes.

(2) The excessive tax on coal is a severe deterrent to the coal industry and has caused a loss of jobs and tax base. A lower tax would make Montana competitive, as the window of opportunity (33% reduction in tax for new contracts) has proved.

(3) The purpose of the coal tax was to provide for future generations and for reclamation. Both purposes are invalid. The coal will last for at least 2,000 years, and reclamation is already being done by the operators.

Senator Keating asked the subcommittee not to use the flow to the trust fund or encumber it in such a way that the legislature can neither use it nor end it. He suggested that the permanent trust be capped, and the tax rate cut in half, which would not reduce funding to any agency currently funded by the part of the coal tax that doesn't go to the permanent trust. To be competitive, he said, the coal tax rate will have to be reduced. Otherwise, "the coal industry here will die."

Asked what method he would suggest for funding infrastructure, Senator Keating replied that 15% of the interest earned by the permanent trust is reinvested in the trust. This money could be used for an infrastructure bank or as security for bonds. The advantage would be that the coal tax would not be encumbered.

Bill Olson of the Montana Contractors' Association asked what that 15% would amount to. He was told that the interest on the permanent trust was $38 million last year. Fifteen percent would be about $5.5 million, which he believes is not enough for an infrastructure fund.

Ms. Ruder suggested that the state needs to maintain its infrastructure to support economic development. She wants local option taxes for larger communities like Billings but supports bond issues to finance smaller communities. Billings would not support a statewide tax for infrastructure, with the proceeds to be redistributed, because "Billings would obviously export dollars."

Missoula

At the subcommittee hearing in Missoula on September 30, three Missoula City Council members described their city's specific needs, which include storm sewers, a sewage treatment plant, a new jail, and street improvements. Two of the City Council members urged the subcommittee to recommend a local option tax earmarked for specific projects.

Senator Halligan (D, Missoula) said that Montana has serious infrastructure problems and that local governments need help from the state. He feels that state assistance should be restricted to water and sewage treatment plants, since these are among the most expensive items for local government. Without adequate treatment plants, cities and towns can't grow or expand their economic base. Amenities like roads and streets should be paid for by the local taxpayers.

Senator Halligan recommended that the committee not consider a loan or bond program but instead provide for matching grants to local governments. Rural and urban interests could be balanced, as they are in the Community Development Block Grant program. Grants could be financed by taking the "revenue stream" going into the permanent trust fund.

Senator Halligan opposed local option taxes on the grounds that they would "Balkanize" the state.

Asked to expand his idea of using coal tax revenue for grants to local governments, Senator Halligan suggested that up to a third of the coal tax revenue be allocated to infrastructure projects. Existing boards or departments could allocate the money. He wants a "mandatory statewide tax" (not a local option tax) to pay for some projects.

For example, his 1985 bill to impose a hotel-motel-campground tax would have returned 85% of the revenue to local governments, for sewer and water, streets, lights, and so on.

Asked why he wanted funding only for water and sewage treatment plants, Senator Halligan said that the state "shouldn't try to fix everything." The federal government had tried to do too many things -- housing, economic development, infrastructure -- with the Community Development Block Grant program. Funding should be provided only for the most essential services and only when there is a long-term benefit for the community.

John Devore, operations officer of Missoula County, reported that the county has $5 million worth of projects that should be done in the next five years. An additional $1.7 million is needed but not available. The county "has no room in the general fund to absorb additional debt."

Mr. Devore suggested that the committee consider changing the 40% voter-turnout requirement for general obligation bond issues. It is very frustrating to have the bond issue approved, only to find that the turnout was less than 40%.

Jim Nugent, Missoula city attorney and president of the Montana League of Cities and Towns, stressed the importance of infrastructure for industrial development. He said that the League has tried for years to get cities to find an alternative to the property tax. He opposes a new bonding program, since bonds usually are paid off with property taxes. He favors local option taxes: "Let the local community decide what projects they want."

Senator Farrell (R, Missoula), pointed out that the federal government was considering at least an 8-cent increase in the gasoline tax. If a local tax were added to that, truckers would buy gasoline elsewhere, perhaps even out of state. Truckers and even tourists fuel in the cheaper states now. "If you're going to increase a tax, do it statewide."

Two of the Missoula City Council members raised the issue of annexation laws. Councilman Reidy said that "A lot of this wouldn't have to be addressed if the legislature would make it easier to annex surrounding areas," and Councilwoman Herbig said that she has lobbied for changes in the annexation laws without success, and that the legislature should authorize a payroll tax, "since we can't get them to contribute any other way."

Mr. Nugent reminded the subcommittee that the 1980 interim study on annexation laws had reported that Montana's annexation laws "allow more opportunity to protest" than in any other western state. Montana is also the only western state that protects special service districts such as fire districts. He recommended revising the annexation laws to permit cities to "annex property that is part of the urban community."

Commissioner Ann Mary Dussault of Missoula County agreed with Senator Halligan that "it makes more sense to levy a tax statewide and disperse it centrally." She liked the idea of a project-specific local-option tax, though she did not think that local option taxes in general offer a realistic approach. She said that local governments must offer options other than property taxes, and that the state must relieve dependency on property taxes statewide. In her opinion, schools, not cities and towns, have caused the growth in the property tax. If the rate of growth in the schools could be controlled, it might be feasible to use property tax revenue for infrastructure. If a new tax is imposed, "we have to be able to demonstrate that it will lead to a reduction in property tax."

Asked to comment on the idea that cities and counties can sell their own bonds, Commissioner Dussault said that Missoula County has had no trouble selling its bonds, though currently things are "shaky" because of Constitutional Initiative 27 [abolishing property taxes in Montana]. Some projects, such as roads and bridges, are not bondable, however. "It's clear that the needs are far beyond our ability to finance locally. A bond program is not going to solve our problem." She asked the subcommittee to give serious consideration to using the principal of the coal tax for "public health, welfare, and safety projects" that local governments cannot finance without help. She believes that such projects are a legitimate use of coal tax revenue.

Commissioner Dussault also asked the subcommittee to consider changing state law to make "innovative" financing possible. As an example, she suggested allowing counties to lease their land and use the money to create an infrastructure fund. Under present law, all revenue of this kind must be allocated the same way that property taxes are allocated, which means that school districts get 60% of it. "I'm getting real tired of working so hard to make money for the schools."

Representative Eudaily (R, Missoula), pointed out that "once a local option tax is established, it's there forever. That's why people are afraid of it." He suggested that any government imposing a local option tax be required to reauthorize it annually. "It would be hard to finance a big project that way, but that's what you ought to do."

Senator Halligan said that his Business and Industry Committee had considered a bill in 1985 to use coal tax money for a bonding pool, to give local governments a better rate. "It turned out that Montana communities do so well in paying back their bonds that they wouldn't save a dime." Instead, the state should give counties as broad a budget authority as the cities have.

APPENDIX G

BILLS RECOMMENDED BY INTERIM SUBCOMMITTEE ON INFRASTRUCTURE

October 1986

__________ BILL NO. ______

INTRODUCED BY ____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
ON INFRASTRUCTURE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF A RESORT COMMUNITY FOR PURPOSES OF THE RESORT COMMUNITY TAX; AMENDING SECTION 7-6-4461, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-6-4461, MCA, is amended to read:

"7-6-4461. Resort community tax -- definitions. As used in 7-6-4461 through 7-6-4467, the following definitions apply:

(1) "Luxuries" means any gift item, luxury item, or other item normally sold to the public or to transient visitors or tourists. The term does not include food purchased unprepared or unserved, medicine, medical supplies and services, or any necessities of life.

(2) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a physician.

(3) "Medicine" means substances sold for curative or remedial properties, including both physician prescribed and

over-the-counter medications.

(4) "Resort community" means a community that:

(a) is an incorporated municipality;

~~(b)--has--a--population-of-less-than-2,500-according-to the-most-recent-federal-census-or-federal-estimate;~~

~~(c)~~(b) derives the major portion of its economic well-being from businesses catering to the recreational and personal needs of persons traveling to or through the municipality for purposes not related to their income production; and

~~(d)~~(c) has been designated by the department of commerce as a resort community."

NEW SECTION. Section 2. Applicability. This act applies to any community that applies to the department of commerce for designation as a resort community after January 1, 1987.

NEW SECTION. Section 3. Effective date. This act is effective July 1, 1987.

-End-

BILL NO. ______

INTRODUCED BY ______________________

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
ON INFRASTRUCTURE

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~~(b) has a population of less than 2,500 according to the most recent federal census or federal estimate;~~

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-End-

_________ BILL NO. _____

INTRODUCED BY ________________________________

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
ON INFRASTRUCTURE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A LOCAL GOVERNMENT TO IMPOSE ANY TYPE OF TAX NOT PROHIBITED BY LAW IF IT IS APPROVED BY THE ELECTORATE OF THE LOCAL GOVERNMENT; PROVIDING FOR ADMINISTRATION OF THE TAX; AND PROVIDING CIVIL AND CRIMINAL PENALTIES NECESSARY FOR ADMINISTRATION OF THE TAX."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. In [sections 1 through 6], the following definitions apply:

(1) "Local government" means the government of a county or a municipality.

(2) "Municipality" means an incorporated city, town, or city-county consolidated government.

Section 2. Authorization of local option tax. (1) If the enabling authority is approved by the electorate, as provided in this section, a local government may impose upon its residents and upon transactions occurring within its jurisdiction:

(a) taxes on income;

(b) taxes on the sale of goods or services; or

(c) any other type of tax not prohibited by law.

(2) The proposal to enable a local government to impose a tax authorized by this section may be initiated by a petition of the electorate, as provided in 7-5-131 through 7-5-135, or by a resolution of the governing body.

(3) The proposal must state:

(a) the specific type of tax the local government proposes to impose;

(b) the proposed tax rate;

(c) proposed exclusions and exemptions, if any;

(d) the proposed duration of the tax; and

(e) the purpose for which the proceeds of the proposed tax would be used.

(4) In addition to the provisions required by subsection (3), the proposal must grant the governing body authority to establish administrative procedures, rules, penalties, and other powers not inconsistent with the approved enabling authority.

(5) Upon approval by the electorate in accordance with 7-5-136, the proposal becomes the local governing body's enabling authority to impose the specified tax subject to all provisions of the enabling authority.

(6) Except as provided in [section 6], the enabling authority may not be amended or repealed by the governing

body without a vote of the electorate.

Section 3. Local option income tax -- special provisions. If the tax authorized by [section 2] is a percentage of the state income tax liability of residents of a county or municipality or of persons earning or receiving income from activity in the county or municipality, the following provisions apply:

(1) A local option income tax must be administered by the department of revenue, and the department of revenue shall adopt rules for the administration of the tax.

(2) Money collected by the department of revenue must be credited to a local income tax account in the fiduciary fund of the state treasury.

(3) The department of revenue shall return the tax proceeds to the jurisdiction where they were collected, except:

(a) the amount of refunds;

(b) a reserve for anticipated refunds; and

(c) an amount for administering the tax, not to exceed 1% of the proceeds collected in each jurisdiction.

(4) A taxpayer whose principal place of business or employment is in a jurisdiction with a local income tax but who lives outside the boundaries of that jurisdiction is liable for one-half the rate of the income tax.

Section 4. Administration of tax -- penalties for

nonpayment. (1) Subject to any restrictions in the enabling authority, a governing body may enforce its provisions pertaining to the imposition and collection of the tax by establishing:

(a) criminal penalties, not to exceed the penalties for violating an ordinance as set forth in 7-5-109; and

(b) civil penalties that are monetary amounts, either fixed or in percentages, enforceable in a justice's, city, or municipal court.

(2) A governing body may contract or enter into interlocal agreements with other local governments or state agencies for the administration of a tax authorized by [section 2].

Section 5. Distribution of tax proceeds. (1) The proceeds of a tax authorized by [section 2] must be used for the purpose stated in the enabling authority, except that a governing body may use a portion of the proceeds for the administration of the tax.

(2) A local option tax imposed by a county must be levied countywide, and unless otherwise provided by agreement with municipalities, the county shall distribute the proceeds based on the point of origin of the tax revenue. After a pro rata deduction for its administrative expenses, the county shall distribute tax revenue collected within each municipality to the municipality and shall

retain tax revenue not collected within any municipality.

Section 6. Double taxation prohibited. (1) A local option tax may not be levied on the same person or transaction by more than one local government.

(2) If the electorate of a county approves a local option tax after the electorate of a municipality in the county has approved a local option tax on the same person or transaction at the same or a higher rate, persons and transactions in the municipality are exempt from the county tax as long as the municipal tax is in effect, but if the municipal tax is at a lower rate than the county tax, the governing body of the municipality shall repeal its tax without a vote of the electorate.

Section 7. Codification instruction. Sections 1 through 6 are intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to sections 1 through 6.

-End-

__________ BILL NO. ______

INTRODUCED BY ____________________________________

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
ON INFRASTRUCTURE

A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING THE PURPOSE OF COAL SEVERANCE TAX BONDS TO INCLUDE PUBLIC WORKS GENERALLY; PROVIDING FOR GRANTS AND LOANS TO LOCAL GOVERNMENTS FOR PUBLIC WORKS PROJECTS; AMENDING SECTIONS 15-35-108, 17-5-701, 17-5-702, 17-5-706, 17-5-719, AND 85-1-603, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. In [sections 1 through 7], the following definitions apply:

(1) "Department" means the department of commerce.

(2) "Local government" means a county, city, town, special improvement district, county water or sewer district, irrigation district, or any other political subdivision of the state, except a school district.

(3) "Project" means the planning, acquisition, construction, repair, rehabilitation, reconstruction, replacement, or improvement of public works.

(4) "Public works" means streets, roads, and bridges; drainage facilities; public transportation systems; water systems; sewer systems; public health and safety facilities; communications systems; libraries; jails; juvenile detention centers; administrative buildings; and other public works constructed, improved, or maintained by a local government.

NEW SECTION. Section 2. Purpose and policy. The legislature finds that:

(1) adequate public works are crucial to public health and safety, essential for economic development, and an important factor in the quality of life in Montana;

(2) the condition of Montana's public works has deteriorated to the point that the need for repair or replacement is urgent;

(3) many local governments in Montana lack sufficient resources to build, maintain, or improve the public works for which they are responsible; and

(4) it is in the state's best interest to assist local governments that otherwise are unable to finance their public works projects.

NEW SECTION. Section 3. Public works debt service fund created -- coal severance tax allocated. (1) There is a public works debt service fund within the debt service fund type established in 17-2-102.

(2) The state pledges, allocates, and directs to be credited to the public works debt service fund, as received:

(a) 0.625% of all money received from the coal severance tax collected under Title 15, chapter 35, and remaining after allocation of such tax to the trust fund established under Article IX, section 5, of the Montana constitution;

(b) any principal and accrued interest received in repayment of a loan made from the proceeds of coal severance tax bonds issued under 17-5-706 for purposes other than water resource development;

(c) all interest earned on proceeds of coal severance tax bonds issued under 17-5-706 for purposes other than water resource development; and

(d) revenue or money otherwise required to be paid into the public works state special revenue account pursuant to [section 4], as determined by the board of examiners, in connection with the issuance of bonds pursuant to 17-5-706 for purposes other than water resource development.

(3) The legislature may levy, pledge, and appropriate to the public works debt service fund any tax, charge, fee, rental, or other income from any designated source. The state reserves the right to modify the nature and amount of special taxes and other revenues pledged and appropriated to the public works debt service fund, provided that the aggregate resources so pledged and appropriated are determined by the legislature to be sufficient for the prompt and full repayment of the principal, interest, and

redemption premiums of all bonds payable from that fund.

NEW SECTION. Section 4. Public works state special revenue account created -- revenue allocated. (1) There is a public works state special revenue account within the state special revenue fund established in 17-2-102.

(2) The following must be paid into the public works state special revenue account:

(a) proceeds from coal severance tax bonds issued under 17-5-706 for purposes other than water resource development;

(b) the excess of the coal severance tax collections allocated by [section 3] to the public works debt service fund above debt service requirements provided in 17-5-708; and

(c) any fees or charges collected by the department for servicing loans.

(3) Appropriations may be made from the public works state special revenue account for the following purposes:

(a) loans and grants for public works projects;

(b) administrative expenses, including but not limited to salaries and other personnel expenses, equipment, and office space;

(c) costs of servicing loans; and

(d) other necessary expenses incurred in administering the loans and grants.

NEW SECTION. Section 5. Grants and loans for local government assistance. (1) A local government may apply to the department for a grant or loan to finance all or part of the cost of a public works project.

(2) The department shall review all applications and may recommend to the legislature that certain projects be funded with a grant or loan, or both, and that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7, to fund the grant or loan. The legislature may approve by appropriation or other appropriate means those grants and loans it finds consistent with the purpose and policy set forth in [section 2].

(3) The department shall:

(a) administer the grants and loans for public works projects;

(b) service loans made or contract and pay for the servicing of loans, including arrangements for obtaining security interests; and

(c) collect reasonable fees or charges for the servicing of loans, including arrangements for obtaining security interests. The fees and charges must be deposited in the public works state special revenue account pursuant to [section 4].

NEW SECTION. Section 6. Eligibility and priority. (1) In recommending a project for a grant or loan, the

department shall determine that a local government meets the following conditions:

(a) it has developed a long-term plan for financing public works; and

(b) it is using all local revenue sources that are reasonably available for funding public works, taking into consideration local economic conditions.

(2) The department shall develop a priority process for public works projects eligible for financing under [sections 1 through 7]. In assigning a priority to a project, the department shall consider at least the following factors:

(a) whether the local government is experiencing severe fiscal distress due to a natural disaster or other emergency public works need;

(b) whether the project is critical in nature and would affect the health and safety of a substantial number of residents;

(c) the number of communities served by or funding the project; and

(d) whether the project is located in an area of high unemployment, compared with the average state unemployment.

NEW SECTION. Section 7. Rulemaking authority. The department shall adopt rules:

(1) prescribing the form and content of applications

for grants and loans;

(2) establishing criteria for recommending a project for a grant or loan, based on the factors in [section 6];

(3) providing for the servicing of loans, including arrangements for obtaining security interests and for charging reasonable fees; and

(4) describing the terms and conditions for making grants and loans, the security instruments, and the agreements necessary.

Section 8. Section 15-35-108, MCA, is amended to read:

"15-35-108. Disposal of severance taxes. Severance taxes collected under the provisions of this chapter are allocated as follows:

(1) To the trust fund created by Article IX, section 5, of the Montana constitution, 50% of total coal severance tax collections. The trust fund moneys shall be deposited in the fund established under 17-6-203(5) and invested by the board of investments as provided by law.

(2) Starting July 1, 1986, and ending June 30, 1987, 6% of coal severance tax collections are allocated to the highway reconstruction trust fund account in the state special revenue fund. Starting July 1, 1987, and ending June 30, 1993, 12% of coal severance tax collections are allocated to the highway reconstruction trust fund account in the state special revenue fund.

(3) Coal severance tax collections remaining after the allocations provided by subsections (1) and (2) are allocated in the following percentages of the remaining balance:

(a) 2 1/2% until July 1, 1987, and thereafter 4 1/2% to the state special revenue fund to the credit of the alternative energy research development and demonstration account;

(b) 6% until July 1, 1987, and thereafter 37 1/2% to the state special revenue fund to the credit of the local impact and education trust fund account;

(c) 30% until July 1, 1987, and thereafter 10% to the state special revenue fund for state equalization aid to public schools of the state;

(d) 1% to the state special revenue fund to the credit of the county land planning account;

(e) 1 1/4% to the credit of the renewable resource development bond fund;

(f) starting July 1, 1986, and ending June 30, 1989, 5% to the general fund, and after June 30, 1989, 5% to a nonexpendable trust fund for the purpose of parks acquisition or management, protection of works of art in the state capitol, and other cultural and aesthetic projects. Income from this trust fund shall be appropriated as follows:

(i) 1/3 for protection of works of art in the state capitol and other cultural and aesthetic projects; and

(ii) 2/3 for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102;

(g) 1% to the state special revenue fund to the credit of the state library commission for the purposes of providing basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking;

(h) 1/2 of 1% to the state special revenue fund for conservation districts;

(i) 1 1/4% to the debt service fund type ~~to-the-credit of~~ to be divided equally between the water development debt service fund and the public works debt service fund;

(j) 4% until July 1, 1987, to the highway reconstruction trust fund account in the state special revenue fund;

(k) all other revenues from severance taxes collected under the provisions of this chapter to the credit of the general fund of the state."

Section 9. Section 17-5-701, MCA, is amended to read:

"17-5-701. State of Montana coal severance tax bonds. (1) In this part, the following definitions apply:

(a) "Local government" means a county, city, town,

special improvement district, county water or sewer district, irrigation district, or any other political subdivision of the state, except a school district.

(b) "Project" means the planning, acquisition, construction, repair, rehabilitation, reconstruction, replacement, or improvement of public works.

(c) "Public works" means streets, roads, and bridges; drainage facilities; public transportation systems; water systems; sewer systems; public health and safety facilities; communications systems; libraries; jails; juvenile detention centers; administrative buildings; and other public works constructed, improved, or maintained by a local government.

(2) This part provides for the issuance of state of Montana coal severance tax bonds (also referred to as coal severance tax bonds in this part) to finance water resource development projects and activities and other public works projects in the state designed to provide~~,-during-and-after extensive-coal-mining,~~ a healthy economy~~,-the-alleviation-of social-and-economic-impacts-created-by-coal-development,~~ and a clean and healthful environment for present and future generations."

Section 10. Section 17-5-702, MCA, is amended to read:

"17-5-702. Purpose and intent. (1) The purpose of the coal severance tax trust fund bond provisions of this part is to establish the authority to issue and sell coal severance tax bonds that have been approved by act of the legislature for financing specific water resource development projects and activities and other public works projects in the state authorized by the legislature and to guarantee redemption of such bonds by revenue derived from the receipts from the coal severance tax imposed by Title 15, chapter 35, part 1, and such other money as the legislature may from time to time determine.

(2) The legislature intends that projects to be financed by coal severance tax bonds include but are not limited to water resource development projects and activities as part of the water development program established in Title 85, chapter 1, part 6. The legislature further intends that the income from water resource development projects and activities in excess of the amount required for debt service and operation and maintenance of those projects and activities be deposited in the water development state special revenue account established in 85-1-604."

Section 11. Section 17-5-706, MCA, is amended to read:

"17-5-706. Authority to issue coal severance tax bonds. The board of examiners, upon approval of the legislature as hereinafter provided, shall issue and sell coal severance tax bonds to finance such approved water resource development projects and activities and other public works projects when authorized to do so by any law that sets out the amount and purpose of the issue. Each project or activity shall be separately approved as to amount by a two-thirds vote of each house of the legislature."

Section 12. Section 17-5-719, MCA, is amended to read:

"17-5-719. Limitation on amount of coal severance tax bonds issued. No more than $250 million worth of coal severance tax bonds may be issued for water development projects and activities and other public works projects."

Section 13. Section 85-1-603, MCA, is amended to read:

"85-1-603. Water development debt service fund created -- coal severance tax allocated. (1) There is created a water development debt service fund within the debt service fund type established in 17-2-102.

(2) The state pledges and allocates and directs to be credited to the water development debt service fund, as received:

(a) ~~1-1/4%~~ 0.625% of all money from time to time received from the coal severance tax collected under Title 15, chapter 35, and remaining after allocation of such tax to the trust fund established under Article IX, section 5, of The Constitution of the State of Montana;

(b) any principal and accrued interest received in repayment of a loan made from the proceeds of bonds issued under 85-1-617;

(c) all interest income earned on proceeds of water development bonds; and

(d) revenue or money otherwise required to be paid into the water development state special revenue account pursuant to 85-1-604, as determined by the board of examiners in connection with the issuance of bonds pursuant to 85-1-617."

NEW SECTION. Section 14. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 15. Requirements for approval of appropriation from coal severance tax trust fund -- severability. Because sections 9 through 12 amend the purpose of an appropriation from the coal severance tax bond fund, which is one of the coal severance tax trust funds established under Article IX, section 5, of the Montana constitution, a vote of three-fourths of the members of each house is required for enactment of sections 9 through 12. If sections 9 through 12 are not approved by the required vote, sections 9 through 12 are void, and the remaining sections of this act are valid and remain in effect in all valid

applications upon enactment.

NEW SECTION. Section 16. Coordination instruction. (1) The bonds authorized under 17-5-706 for purposes other than water resource development may not be issued unless a bill authorizing the debts and appropriating the funds pledged for their repayment is passed and approved by a three-fourths vote of each house of the legislature.

(2) The legislature shall specifically approve each public works project before the bonds to finance that project can be issued.

NEW SECTION. Section 17. Effective date. This act is effective July 1, 1987.

-End-

THE GREAT SEAL OF THE STATE OF MONTANA
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